LITTLE-
TON TENVRES
in Engliſhe.

Cum priuilegio ad im-
primendum ſolum.

Fee simple.

Estate of enheritaunce.

Fee taile. { General. Especial. after possibilitie of issue.

After comē lawe. }

Franktenement onely. { Curtesie of Englande. Dower. Term of life Term of others lyfe.

Frāk tenēt.

Possession of

After the custome.

Also note here that franktenemēt after the custom may be deuided in like maner as franktenement by the common lawe is.

Real. { Terme of yeres. warde of lande. To holde at wyl.

Chatel.

Parsonal. Al goodes mouables.

Tenant

TEnant en fee simple is he whiche hath landes or tenementes to holde to hym and to his heyres for euer. And it is called in latin feodum simplex, for feodum is called inheritãce and simplex is asmuche to saye as lawful or pure, and so feodum simplex is as much to say as lawfull or pure inheritaunce. For if a man will purchase landes or tenementes in fee simple, it behoueth hym to haue these woordes in his purchase, to haue and to hold vnto hym and to his heires, for these words his heires make the estate of inheritance. Anno. 20. H. 6 Folio. 38.

¶ For if any man purchase landes by these woroes, to haue and to hold to hym for euer, or by suche woordes to haue and to holde to hym & to his assignes for euer. In these two cases he hath none estate but for terme of life for that, that he lacketh these wordes his heires, whiche woordes onely make the estate of inheritaunce, in al fcoffementes and graũtes.

And if a man purchase landes in fee simple and dye without issue, euery one that is his next cosyn collateral of the whole bloud, how farre soeuer that he be from hym of degree, may inherite and haue the same land as heire to hym. But yf there be father and son, and the father hath a brother, which is vncle vnto the sonne, and the son purchaseth lande in fee simple and dyeth without issue liuyng the father, the vncle shall haue the lande, as

heire vnto the sonne, & not the father (yet the father is more nye of bloud vnto the sõne) for that that ther is a groũd in law, that inheritance may lineally descend, but not lineally ascende, yet if the sonne in such case die without issue & his vncle entreth into the land as heir vnto the sõne so as he ought by the law, and after if the vncle decease without issue liuing the father than shal the father haue the lande as heire vnto the vncle, & not heire vnto ꝑ sõ, for that, that he cõmeth vnto the land by collateral discent, & not by lineal ascencion.

And in such case where the son purchaseth land in fee simple, & dieth without issue, they of his bloud on the fathers side shal inheryte as heyre vnto hym, before any of the bloud of the mothers side. But if he haue none heyre on the fathers syde, than shall the land discẽd vnto his heire on the mothers side. And thys is the opinion of al the Justices. My. 12. E. 4. fol. 14. But there it was holden if any lande discend vnto a man by the fathers syde which dyeth without issue, that his next heire on the fathers syde shal inherite vnto hym, that is to say the next of bloud of the father of ꝑ graũd fathers syde. And for defaut of such an heyre ther that be of the fathers bloud of the parte of the mothers, of the father (that is to saye) the graũdmother ought to inherit. And if ther be no such heire on the fathers syde, than the lorde shall haue the land by eschete. And so it is if a man take a wyfe inherite in fee liple,

Which

which hath issue a son & dieth, & the son entreth into the tenemētes as sonne & heire vnto hys mother, & after dieth wout issue, the heyres on the mothers side ought to inherite the tenemētes, & not the heires on the fathers side. And if there be none heires on the mother side than the lord of whō thesame land is holden, shal haue the same lād by eschete. In the same maner it is if landes discend vnto the sōne on the father side, & entreth & after dyeth without issue, the land shal discend vnto the heyres on the fathers syde, & not vnto the heires on the mother side. And if ther be none heires on the father side, than the lord of whō the lande is holdē shal haue the same land by eschete. And so ye may se the diuersitie, wher the son purchaseth landes in fee simple, & where he commeth into those landes or tenementes by discent on the father syde or on the mother side.

Also if ther be thre brethren, & the myddle brother purchaseth land in fee simple & dyeth wout issue the elder brother shal haue the lād by discent & not the ponger. Also if ther be. 3. brethrē, & the pōgest brother purchaseth lād in fee simple & dieth without issue the elder brother shal haue the lād by discēt, & not the middle brother, for that that the elder brother is more worthy of blond.

¶ And it is to bee vnderstande that no man shal haue lande in fee simple by discent as heyre vnto any manne, but that he be hys heire of the hole blond. For if a mā haue issue 2. sōnes, by. 2. ventres & the elder purchaseth

land in fee ſimple and dyeth without iſſue, the ponger brother ſhal not haue the land but the vncle of the elder brother or ſome other hys nigh colyn ſhal haue it, for that, that the ponger is but of the halfe bloude to the elder brother. And if a man haue a ſon and a daughter by one ventre, and a ſon by a nother ventre, and the ſonne by the firſt ventre purchaſeth lande in fee ſimple and dyeth without iſſue, the ſiſter ſhall haue the lande by diſcente as heyre vnto her brother and not the younger brother, for that that the ſiſter is of the whole bloude to her elder brother.

And alſo where a man is ſeaſed of land in fee ſimple, and he hath iſſue a ſō and a daughter by one ventre and a ſon by a nother ventre and dyeth, and the elder ſon entreth and dyeth without iſſue, the daughter ſhall haue the lande and not the ponger ſon, and yet is the ponger ſon heyre vnto his father and not his brother. But if the elder ſon enter not into the lande after the death of his father, but dyeth before enter made by hym, then the pō ger brother may enter and haue the lande as heire vnto his father. But where the elder ſon in the caſe aforeſayde entreth after the death of his father and therof hath poſſeſſiō, than the ſiſter ſhal haue the lande. Quia poſſeſſio fratris de feodo ſimplici facit ſororem eſſe heredem. For the poſſeſſion of the brother in fee ſimple maketh the ſiſter to be heir.

But if there bee two brethren by dyuers

ventres,

ventres, and the elder is sealed in fee simple and dyeth without issue and his vncle entreth as heire vnto hym, which also dyeth without issue, than the yonger brother maye haue the lande as heyre vnto his vncle, because he is of the whole bloude to hym though he be but of half bloude vnto his elder brother.

And it is to vnderstande that this worde inheritaunce, is not onely vnderstand where a man hath landes or tenementes by discent of heritage. But also euery fee simple or fee tayle that a man hath by his purchase, may be sayde inheritaunce, for that, that his heyres may inherite hym. For in a writ of right that a man bryngeth of land, that was of his own purchase, the writ shal saye: Quam clamat esse ius & hereditatem suam. That is to saye, which he clayneth to be his ryght and his inheritaunce. And so it shal be sayde in diuers other writes which a man or a womā bringeth of theyr owne purchase, as it appereth by the register.

And of suche thynges as a man may haue a manuell occupacion, possession, or reseet, as of landes, tenementes, rentes, and such other, a man shall say in his pledyng and in way of barre, that one such was sealed in his demesn as of fee. But of suche thynges that lye not in manuell occupacion. &c. as of auowson of a churche, and such maner thing, there he shall saye that he was sealed as of fee, and not in his demesne as of fee. And in latin it is in

the same case sayd. Quod talis fuit seisitus in dominico suo vt in feodo, that is to say, that such one was seased in his demeane as of fee, and in that other, Quod talis fuit seisitus &c. vt de feodo that is to say that one such was seased as of fee.

And note well that a man may not haue a more large ne greater estate of inheritaunce than fee simple.

Also purchase is called the possession of landes or tenementes that a man hath by his dede or by his agrement, vnto which possession he commeth not by discent of any of hys aunceslers or of his cosyns, but by hys owne dede.

¶ Fee tayle.

TEnaunt in fee tayle is by force of the statute of westminster the seconde. Capi. primo for at the comon law before the sayde statute, al inheritaunce wer fee simple for al the gyftes which been specified within the same statute, were fee simple condicionally, as it appereth by the rehearsal of the statute. And nowe by the same statute tenaunt in the taile is sayde in two maners, that is to say, tenant in taile generall, & tenant en tayle special.

Tenaunt in tayle generall, is wher landes or tnements be geuen to a man and to hys heyres of his body begotte. In this case it is sayde generall tayle, for that that whatsoeuer woman that the tenant taketh vnto wyfe, yf he haue many wyues, and by eche of the hath

issue

ſſue, yet eche one of theſe ſſues by poſſibi=
litye maye inherite the tenementes by force
of the ſayde gyft. becauſe that euery ſuch ſſue
is of his body engendred.

In the ſame maner is where landes and
tenementes be geuen to a woman and to the
heires cõming out of her body how be it that
ſhe haue many houſbandes, yet the ſſue that
ſhe may haue by eche houſbande may inherite
as ſſue in the tayle by force of ſuche gyftes.
And therfore ſuch gyftes been called general
tayle.

Tenant in tayle ſpeciall, is where landes
and tenementes be geuen vnto a man and his
wife and the heires of theyr two bodyes be=
gotten. In ſuch caſe none may inherit by force
of ſuch gift, but thoſe that be engendred be=
twene them two and it is called eſpecial tail
for that if the wyfe dye, & he taketh another
wyfe and hath ſſue the ſſue of the ſecõd wife
ſhal neuer inherite by force of ſuch gyft. Nor
alſo the ſſue of the ſeconde houſbande yf the
fyrſt houſband dye.

In the ſame maner it is where landes
and tenementes bee geuen by a man vnto a=
nother with a wyfe, which is the daughter or
coſyn to the geuer in franke mariage. which
gift hath inheritance by theſe wordes franke
mariage vnto it annexed. howbeit that they
be not expreſſly ſayde or reherſed in the gifte,
that is for to ſay that theſe donees ſhal haue
theſe lãdes or tenemẽtes to them and to theyr
heyres

heyres betwene them two engendred, & thys is sayde especial tayle for that the issue of the seconde wife may not inherite.

And note wel that this worde tailyare is to say to set vnto some certaintie or els limit vnto some certain inheritance. And for that, that it is limit & set in certain, what issue shal inherite by force of such giftes, and how long that the inheritance shal indure: Therfore it is called in latin feodum talliatum. i. hereditas in quadam certitudine limitata. For if tenant in general taile die without issue the donour or his heires shall inherite as in theyr reuercion. In the same wyse is of the tenãt in the tayle special. &c. For in euery gyfte of the tayle without more saying, the reuercion of fee simple is in the donour.

And the donees and theyr heyres shall do to the donour and to hys heyres, suche seruices as the donour dothe vnto his lorde next aboue. Excepte the donees in franke Maryage, whiche shall holde quietely from euerye maner seruice (but if it be for fealtie) vntyll the fourth degree bee passe. And after that the fourth degree is past, the issue in the fifth degree and so forth the other issues after hym, shall holde of the donour & of his heires, as they holde ouer as is afore sayde.

And the degrees in franke mariage shalbe accompted in such maner, that is to say, from the donour to the donees in franke mariage the fyrst degre, for that, ỹ the wife that is one

of

of the donees ought to bee daughter syster or other cosyn to the donour. And from the donees vnto theyr issue shalbe accompted the seconde degree. And from theyr issue vnto theyr issue, the thyrde degree and so forth. &c.

And the cause is, for that after euery such gyft, the issues that come of the donour, and the issues that come of the donees after the fourth degree paste, of bothe parties in suche forme to bee accompted, may betwixt them by the law of holy churche intermatye. And that the donee in franke mariage shall be the fyrst degree of the fowre degrees a man may se in a plee vpon a writ of ryght of warde. Anno 31. E. 3. wher the playntyf pleded, that his alle or graundfather was seased of certain landes &c. And that he helde of another by knyght seruice. &c. whiche gaue the lande vnto one Rafe Holande with his sister in franke mariage. &c. And all these tayles before sayde be specified in the sayde estatute of westminster the seconde.

Also there bee diuers other estates in the tayle, howbeit that they be not specifyed by expresse woordes in the sayde estatute, but they betaken by the equitie of the statute, as if landes be geuen vnto a mā & to his heires males of his body engendred. In suche case his heyre male shall inherite, and the issue female shall neuer inherite, yet in these other tayles aforesayd it is otherwyse. In the same maner it is yf landes be geuen to a man and

to

to heires females of his body engendred. In this case his issue females shal inherit by force & forme of the said gift & not the issue male, for that in such cases wher the gift is, who ought to inherite and who not, the wyl of the donour shalbe obserued. And in the case where landes be geuen to a mā & to his heyre males issuyng of his body, & he hath issue two sōnes and deceaseth, the elder sonne entreth as heire male and hath issue a daughter and deceaseth, his brother shall haue the lande and not the daughter, for that the brother is heyre male. But it shal be other wyse in these other tailes aforesayde, which ben especifyed in the sayde statute, the daughter shall inherite before the brother.

Also yf lande be geuen vnto a man, and to his heyres males of his body engendred and he hath issue a daughter, whiche hath issue a sonne and deceaseth and after that the donor deceaseth: in this case the sonne of the daughter shall not inherite by force of the tayle, for that whosoeuer shall inherite by force of a gyft in the tayl made vnto his heyres males behoueth to conuey his discent alway by the males. M. 18. E. 3. folio. 45. But in suche case the donour shall entre for that the donee is dead without issue male in the lawe. In so muche that the issue of the daughter may not conuey to hym the discent of heyre male. And in the same maner is it where landes be geuen to a man and to his wyfe & to his heyres

males

males of theyr two bodyes ingendred &c.

Also yf tenementes bee geuen to a manne and his wyfe, and to the heyres of the bodye of the manne ingendred, in this caie the husbande hath estate in the general tayle and the wyfe but estate for terme of lyfe.

Also yf landes bee geuen to the housbande and to the wyfe, and to the heyres of the husbande which he ingendreth of the body of the wyfe. In this case the husbande hath estate in the speciall tayle, and the wyfe but for terme of life.

And yf the gift be made to the housbande and to the wyfe, and to the heyres of the wyfe of her body by the husband ingendred, than the wyfe hath estate in the speciall taile, and the husbande but for terme of lyfe. But if landes be geuen to the husband and the wife, and to the heyres that the husband ingendreth on the bodye of the wyfe. In this case bothe haue estate in the tayle for that this woorde (heyres) is not limitted no more to the one the to the other.

Also yf landes be geuen to a man and hys heyres that he engendreth on the body of his wyfe in this case the husbande hath estate in the tayle special, and the wyfe nothyng.

Also yf a man haue issue a sonne, and deceaseth, and the lande is geuen to the sonne, and to the heyre of the body of his father ingendred, this is a good tayle, and yet the father was dead at the tyme of the gyft.

Also

Also there be many other estates in the tayle by the equetie of the sayd estatute that be not specified here. But if a man geue lãdes or tenemẽtes to another to haue and to hold to hym and to his heyres males, or to hys heyres females, he to whõ such gyft is made hath fee simple, for that that it is not limitted by the gyft of what body the issue male or female shal be, and so it may not in any thig be taken by the equitie of the sayd estatute, and therfore he hath fee simple.

¶ Tenant en tayle after possibilitie of issue extinct.

TEnaunt in the tayle after possibilitie of the issue extinct, is wher as landes or tenementes bee geuen vnto a man and his wyfe in speciall tayle, if one of them decease without issue, he that suruiueth is tenaunt in the tayle after possibilitie of issue extinct. And yf they haue issue during the lyfe of the issue, he that suruiueth shal not be sayd tenãt in the tayle after possibilitie of issue extincte. Yet if the issue decease without issue, so that there be none aliue that may inherit by force of the tayle, then he that suruiueth of the donees is tenant in the tayle after possibilitie of issue extinct.

Also if landes be geuen to a man and to his heires that be engendred on the body of his wife. In this case the wyfe hath nought in the tenementes, and the housband is seased

sed as donee in speciall tayle. And in thys case if the wyfe decease without issue of her body engendred by her housbande, then the housebande is tenaunt in the tayle after possibilitie of issue extinct.

And note well that none maye bee tenaunt in the tayle after possibilitie of issue extincte, but one of the donces or the donee in speciall tayle, for the donee in generall tayle may neuer be sayde tenaunt in the tayle after possibilitie of issue extinct, for that alway duryng his lyfe, he may by possibilitie haue issue that may inherite by force of the same tail. And so in the same mañ the issue that is heire vnto the donees in a speciall tayle maye not be sayde tenaunt in tayle after possibilitie. &c. causa qua supra.

Also tenant in tayle after possibilitie of issue extinct, shall neuer be punished of wast, for the inheritance that once was in hym. Anno. 10. H. 6. fol. 1. But he in the reuercion maye entre, if he doth alien in fee. An. 45. E. 3. fo. 22.

¶ Tenaunt by the curtesy of Englande.

TEnaunt by the curtesye of Englande, is where a man taketh a wyfe sealed in fee simple, or of fee tayle generall, or as heyre in the tayle speciall, and hath issue by the same wyfe male or female. The issue after beyng dead or alyue if the wife decease, the husband shal hold the lande during his life by the law

of

of Englande, and this is called tenant by the curteſye, for that it is not vſed in none other realme but onely in Englande. And ſome ſay that it ſhal not be ſayd tenaunt by the curteſye, but if that chylde that he hath by his wyfe be hard crye, for by the crye is the proofe that the child that he had by his wife was borne.

¶ Tenant in dower.

TEnant in dower is where a man is ſeaſed of certayn landes or tenemētes in fee ſimple, or in tayle general or as heyre in the tail ſpecial and taketh a wyfe and deceaſeth, the wyfe after the deceaſe of her huſband ſhal be endowed of the thyrde part of ſuche landes or tenementes that wer her houſbandes in any tyme duryng the couerture, to haue and to holde to the ſame wyfe in ſeueralte by metes and boundes for terme of her lyfe, whether ſhe haue by her houſbande iſſue or none, and of what age that the wyfe bee, ſo that ſhe paſſe the age of nyne yeare at the tyme of her houſbandes death or els ſhe ſhall not bee endowed. And note well that by the common lawe the wyfe ſhall not haue for her dower but thyrde parte of the tenementes, whiche were her houſbandes duryng the eſpouſels. By cuſtome of ſome countrey ſhe ſhall haue the halfe, and by cuſtome of ſome towne or borough ſhe ſhall haue the whole, and in all theſe caſes ſhe ſhall bee ſayde tenaunt in dower.

Alſo

Also ther is two other maner of dowers, that is to say, dower called dowement in the church dooze and dower called dowment by the fathers assent. Dowement at the churche dooze is, where a man of ful age is seased in fee simple whiche shall be wedded vnto a wyfe, when he cometh vnto the churche dooze, and there after affyaunce, and trueth plight made betwene them, endoweth hys wyfe of his whole lande, or of the halfe or lesse parcell, & there openly declare the quantitie and the certayne of hys lande that she shall haue for her dower. In thys case the wyfe after the death of her housbande shall entre into the said quantitie of lande, of which her housband endowed her without the assignement of any manne. Downement by the fathers assent is where the father is seased of tenementes in fee, and hys sonne and heyre apparente when he is wedded, indoweth hys wyfe at the churche dooze of parcell of the landes or tenementes of his fathers or thassent of hys father, and assygneth the quantitie of the parcelles. In this case after the death of the sonne, the wyfe shal enter in the same parcell without the assignement of any other. But it hath ben sayd in this case that it behoueth the wyfe to haue a dede of the father, prouyng his assent and consent of suche indowement. And if after the death of the housbande she enter and agree to anye suche dower of the sayde two dowers at the churche dooze, than she is concluded to claime

any other Dower by the common lawe of anye landes or tenementes, whiche were of her sayde housebande. But if she will she may refuse suche Dower at the Churche dooze, & than she may be endowed after the course of the common lawe. And note well that no wyfe shall bee endowed of the fathers assent in the fourme aforesayde, saue where the husband is sonne and heyre apparaunte to hys father.

¶ Inquere in these twoo cases of Endowement at the Churche dooze if the wyfe at the tyme of the death of her housebande, passe not the age of. 9. yeres, if she shal haue such Dower or no.

¶ And note well, that in all cases where the certaynetie appeareth what landes or tenementes the wyfe shall haue for her Dower, the wyfe maye enter after the deathe of her housebande without assygnement of anye other. But where the certayne appeareth not, as to be endowed of the thyrde parte to haue in seuerall, or to bee endowed of the halfe after the custome to holde in seueraltie. In suche cases it behoueth that her Dower be vnto her assygned after the deathe of her housebande, because it is not limitte beefore the assygnemente what parte of lande or tenementes she shal haue for her Dower. But if there bee twoo ioyntenantes of certayne landes in fee, and the one alyenethat, that to hym pertayneth and belongeth, to another

ther in fee, which taketh a wyfe and after dyeth. In this case the wyfe for her Dower shall haue the third part of the halfe that her husbande purchased, to holde in common and occuppye in common as her part amounteth with the heyre of her houseband, and with the other ioyntenant whiche aliened not, for that in such case her dower may be assigned by metes and boundes.

¶ And it is to vnderstande, that the wyfe shall not be endowed of landes or tenementes that her husband ioyntly helde with another at the tyme of his death. But where he holdeth in commō otherwise it is, as in the case aforesayde. And it is to wit that if the tenant in tayle endowe his wife at the church dore as it is aforesaid that shall serue for little or naught to the wyfe for that ẏ after the death of her husband the issue in the tayle may entre vpō the possessiō of the wife, & so may he in ẏ reuerē if ther be none issue in ẏ tayle alyue.

¶ Also if a manne seysed in fee simple being within age endowe his wife at the churche dore and dyeth, and the wife entreth. In this case the heyre of the husbād may put her out. But otherwise it is as it semeth where the father is seysed in fee, and the sonne within age endowe hys wyfe of his fathers assente, the father than being of full age.

¶ Also there is another Dower whiche is called Dowement de la plus beale. And that is as in suche case that a manne is seised

of.xl.acres of lande, and he holdeth.xx.of the
sayd.xl.acres of one man by knightes seruice,
and the other xx.acres of an other in socage, &
taketh a wyfe, and hath issue a sonne, and di-
eth his sõne being within the age of.14.yeres
and the lord of whom the lande is holden by
knightes seruice entreth into the.xx.acres of
lande holden of hym, and them hath and occu
pyeth as warden in chiualrye during the chil-
des nonage, and the childes mother entreth in
the remmaunt, and it occupyeth as garden or
warden in Socage. If in thys case the wyfe
bring a writte of Dower agaynst the war-
den in chiualrye to be endowed of the tene-
mentes holden by knightes seruice in the kin
ges court or in anye other court, the warden
in chiualrye may pleve in such case all the ma-
ter, and shew howe the wife is warden in so-
cage as it is aforesayd, and prayed that it may
be adiudged by the court that the wife endow
her self of the most fayre called plus beale of
the tenementes that she hath as wardeyn in
socage after the value of the third parte that
she claymeth to haue of the tenementes in chi
ualrye by her writ of Dower, and if the wife
may not gainsay it, then the iudgement shalbe
made that the wardein in chiualrye shal hold
the landes holden of hym during the nonage
of the chylde quyte from the woman &c. And
that the woman may endowe her selfe of the
most fayre part of the landes that she hath, as
wardeyn in socage to the value of the thyrde

parte

parte that the wardeyn in chiualrye hath. &c. And after ſuche iudgement geuen, the wyfe may take her neyghboures, and in theyr preſence endowe her ſelf by metes and boundes of the fayreſt part of the tenementes that the hath as wardeyne in ſocage to the valure of the thyrde parte of the landes that the warden in chiualrye hath, and that to haue & hold for terme of her lyfe. And ſuche dower is called dower of the fayreſt part or de plus beale. ¶ With thys agreeth. 9. xlb. E. iii. fol 4. But there it was ſayd, that after the time that the heyre come to his full age, the wyfe ſhall haue a newe action of dower agaynſt the heyre to be endowed of the third part of al that the mã dyed ſeiſed. And note well that ſuch dowemẽt may not be, but where the iudgement is geuẽ in the kinges court, or in cõe other court. And the wyfe may doe this for ſaluacion of the ſtate of the warden in chiualry during the nonage of the childe. And ſo ye may ſee fyue maner of dowers, that is to ſay dowement by the common lawe, dower by cuſtome, dower at the church dooze, dower of the fathers aſſent, and dower of the moſt fayre. And remember that in euery caſe where a man taketh a wyfe ſeaſed of ſuch eſtate of tenementes &c. ſo that the iſſue that he hath by his wyfe may by poſſibilitie inherite theſame tenemẽtes of ſuch eſtate that the wyfe hath, as heyre to the wyfe: In ſuch caſe after the wyfe is dead, he ſhall haue theſame tenementes by the courteſy of Eng-

land, and otherwise not.

¶ And also in euery case where the wife taketh an husband seised of such estate of tenementes. &c. so that by possibilitie it maye hap the wife to haue some issue by her husband, & that the same issue may by possibilitie inherite the same tenemētes of such estate that the husband had, as heyre to his father, of such tenementes she shall haue her dower, and otherwise not. For if the tenementes be geuen vnto a man & to the heyres that he geatteth on his wifes bodi, in such case the wife hath naught in the tenemtz. And the husband hath estate but as done in special taile. yet if the husbād die without issue, the same wife shalbe endowed of the same tenemtz, for that the issue that she by possibilitie might haue had by the same husband, may inherite the same tenemtz. But if the wife decease liuing the husband, & after taketh another wife, the second wife shal not be endowed in this case, Causa qua supra.

¶ A manne was seised of certain landes, and toke a wife, and after alened the same landes with warrantye, and after the feoffour and feoffee died, and the wife of the feoffour bringeth an action of dower agaynst the issue of the feoffee, and he vouched the heyre of the feoffour, and during the voucher and not termined, the wyfe of the feoffe bringeth an action of dower against the heyre of the feoffe, and demaundeth the third parte of al that her housebande was seised, and would not demaunde

maunde the third part of those twoo parties that her housebande was seised it was iudged that she shoulde haue no iudgement vntil the tyme that the other plee were determined. And also note that Manasour sayeth, that if a manne be seised of landes and committeth felonye, and alieneth, and after is attaynted, the wife shall haue good action of dower agaynst the feoffee. But if it bee escheted vnto the kyng, or vnto the Lorde, she shall haue no writte of dower. And so see the diuersitie, and inquere the cause.

¶ Tenant for terme of lyfe.

TEnant for terme of life, is where a manne letteth landes or tenementes to a man for terme of life of the lessee, or for terme of lyfe for an other man. In such case the lessee is tenant for terme of lyfe. But by common language he that holdeth for terme of his own life, is called tenant for terme of life, and he that holdeth for terme of another mānes life, is called tenant for terme of another mannes life. And it is to be vnderstande, that there is feoffour and feoffe, donour and donee, lessour and lesse. The feoffour is properly where a man enfeoffeth another in anye landes or tenemētes in fee simple, he that maketh the feffemēt is called feffour, & he vnto whō the feffemente is made, is called feoffee, and the donoure is properlye where a manne geueth certayne landes or tenementes to another in

the tayle. he that maketh the gift is called do-nour and he to whom the gyft is made is cal-led donee. And lessour is properlye where a man letteth to an other certayn landes or te-nementes for terme of lyfe, for terme of yeres, or to holde at will. he that maketh the leas is called lessour, and he to whome the leas is made is called lessee. and euery one that hath estate in landes or tenemẽtes for terme of hys owne life, or for terme of an other mans lyfe, is called tenaunt of free holde. And none of lesse estate may haue free holde but they of gre-ter estate may haue free holde, for tenant in fee simple hath free hold: and tenant in the tayle hath also free holde.

¶ Tenant for terme of yeres. Cap. 7.

¶ Tenant for terme of yeres is, where a man letteth landes or tenemẽtes to an other for terme of certayne yeres after the nounber of yeres that is accorded betwene the lessour and the lesse, and when the lessee entreth by force of the leas, thã is he tenant for terme of yeres and if the lessour in such case reserue to hym a yerely rent vpon such lees, he may choose for to distreyne for the rent in the tenemẽtes let-ten, or elles he may take an accion of det for the arrerages against the lessee. But in suche case it behoueth that the lessour be sesed in the same tenemẽtes at the tyme of his lees for

it is

it is a good plee for the lessee to say that the lessour had nothing in the tenementes at the tyme of the leas except the leale be made by dede endented in which case than such plee lyeth not for the lessee to plede.

¶ And it is to vnderstande that in a leale for terme of yeres by dede or without dede, it needeth no liuere of seisin to be made to the lesse, but he may enter whansoeuer he will by force of the same leale. But of feoffementes made in the countrey or gyftes in the tayle, or leases for tme of lyfe. In such cases where free hold shall passe if it bee by dede or without dede, it behoueth to haue liuery of seisyn &c. But if a man let landes or tenemētes by dede or without dede for terme of yeres, the remaynder ouer to an other for terme of lyfe, or in the tayle or in fee than in such case it behoueth that the lessour make liuere of seisi to the lesse for tme of yeres or elles there shall nothinge passe to them in the remaynder, though the lesse enter in the tenementes. And if the lermour in such case ētre before any suche liuere of seisi made vnto him than is the free hold and the reuercion in the lessour. But if he make any liuere of seisin vnto the lessee, than it is free holde with the fee of thē in the remaynder after the fourme of the graunt and will of the lessour.

¶ And if a manne will make a feoffement by dede or without dede of landes or tenemētes that he hathe in moe townes than in one in one shire, if the liuere of seisin be made in one

parcel

parcel of the thitz in one town in the name of al it sufficeth for al the other lãdes or tenemẽtes cõphended in the same feoffmẽt in al other townes in the same shyre. But if a mã make a dede of feffement of landes or tenitz in diuers shyres, there it behoueth him to haue in euery shyre a liuere of seisin. And in such case a mã shal haue by the grãt of another fee simple, fee taile, or free hold without liuere of seisin. And if.ii.mẽ be eche of thẽ is seised of a quãtitie of land within one shire, & the one grãteth his land to the other in exchãge for the land that the other hath, & in the same maner the other granteth his land vnto the first grantour in exchange for the land that the first grantour hath. In this case eche may entre in the other landes so taken in exchange without any liuere of seisin. And such exchaunge made by woordes of tenementes within the same shire without any writing is good ynough. And if the landes or tenementes bee in diuerse shyres that is to saye, if that the one haue in one shyre, & the other hath in an other shyre, it behoueth to haue a dede indented made betwene them of such exchaunge.

¶ And note that in exchange it behoueth that the estates that both parties haue in the landes so exchanged be egall. For if the one willeth and granteth that the other shal haue his lande in the tayle, for the land that he hath of the graunte of the other in fee symple, though the other is agreed to that, yet thys exchange

is but

is but voyde, for that the estates be not euen.
¶ In the same maner it is where it is granted and agreed betwene thē that the one shal haue in the one land fee taile, & the other shal haue in the other land but terme of life. Or if one shall haue in the one land fee tayle general, and the other in the other land fee tayle especial. So alway it behoueth that in exchāge the estate of both parties be euē, that is to say if that one haue fee simple in that one lād, that the other shal haue such estate in the other lād and if the one hath fee tayle in the one land, than the other shal haue like wise in the other lād. Et sic de aliis statibus. But it is nothing to charge of the euen value of the landes, for though that the land of that one is so muche more in value, than the lande of the other, thys is nothynge to purpose, so that the estates made by the exchaunge be euen, and so in exchaunge by two grauntes, for euer part grant eche his land to the other in exchange, and in eche of their grauntes mencion shall be made of the exchaunge.
¶ And if a mā let lād to another for terme of yeres, though the lessour dye before the lessee enter into the tenemētes, yet may he enter into the tenemētes after the death of the lessor, for that. ỹ the lessee by force of the lease, hath right incontinent to haue the tenementes after the fourme of the lease. But if a manne make a dede of feoffemēt vnto another, & a letter of attorney to a manne to deliuer to hym
seisin

seisin by force of thesame dede, yet if the liuere of seisin be not made in the syse of hym that made the dede, it auayleth not, for that the other hath no maner of right to haue the tenementes after the purporte of the dede before the liuere of seisi &c. And if no liuere be made than after the deth of him that made the dede the right of such tenementz is continent in hys heyre or in some other. Also if tenementes be lette to a man for terme of halfe a yere, or for terme of a quarter of a yere &c. In such case if the lessee make waste, the lessour shall haue agaynst him a writte of waste, and the writte shall saye: Dum tenet ad terminum annorum. But he shall haue a speciall declaracion vpon the trouth of this matter, and the plee shal not abate the wryt for that, that he may haue no other writ vpon the matt. Anno. 7. H. 7. fol. 1.

¶ Tenant at will. Ca. 8.

TEnaunt at will is, where landes or tenementes be letten by a man vnto an other, to haue and to holde to him at the will of the lessour, by force of whiche lease the lessee is in possession. In suche case the lesse is called tenant at will, for that he hath no certayn sure estate for the lessor, may put him out at what time it pleaseth him, yet if the lesse sowe the lande and the lessour after the sowing and before that his greynes be ripe putteth him out yet shal the lesse haue hys greynes, & shal haue free egresse and regresse to reape and to carry hys

hys greines, for that he wist not at what time his lessour would enter vpō him. Otherwise it is if tenant for terme of yeres before ꝯ end of his terme soweth the land, and the terme is ended before that hys greynes be rype. In thys case the lessour, or he in the reuercyon shall haue the greynes, for that the farmour knew well the certayn of his terme & whan his terme should be ended.

¶ Also if an house be lette to a man to holde at will, by force of which the lesse entreth into the house, within which house he bringeth hys houshold stuffe, and after the lessour putteth hym out, yet shall he haue free entree, egresse and regresse in the same house by reasonable time to cary his goodes and houshold stuffe. And if a man be seised of a house in fee simple, fee tayle, or for terme of lyfe, the which hath certayn goodes within the same house, and maketh hys executours and discriseth, whosoeuer after his death hath the house yet shal his executours haue free entre, egresse & regresse to carye out of the house the goodes of theyr testatours by a reasonable tyme.

¶ Also if a man make a dede of feoffemente vnto an other of certayn land, and deliuereth to him the dede but no liuery of seisin. In this case he to whome the dede is made may enter into the land, and hold & occupy it at the will of hym that made the dede for that, that is proued by the woordes of the dede, that it is his will that the other shall haue the lande. But

he that

he that made the dede, may put him out when he will.

¶ Also if an house be let to holde at will, the lessee is not holden to sustayne or repayre the house, as tenant for terme of yeres is holden to doe. But if the lessee at will make voluntary wast, as in pullig down of houses, or in cutting or felling of trees: It is sayd that the lessour shall haue for that against him an accion of trespas. As if I deliuer to a man my sheepe to donge or marle his land, or myne oxen to eyre his land, & he slayeth my beastes, I may well haue an accion of trespas agaynst hym, notwithstanding the deliuere.

¶ Also if the lessour vpon suche lease at will, reserue vnto him a yerely rent, he maye dystreyn for the rent behynd, or to haue for that an accion of Dette at his owne choyse. H. vi. R. ii. in Replegin.

¶ Tenant by coppe of courte rolle. Cap. 9

TEnaunte by coppe of court rolle, is as if a manne be seised of a Maner within which Maner there is a custome, and hath been vsed tyme out of mynde, that certain tenantes within the same maner haue vsed to haue landes or tenementes to holde to thē & to theyr heyres in fee simple or in fee tayle, or for terme of life. &c. at the will of the lord, after the custome of the same maner. And suche a tenante maye not alyene the lande by dede, for than the

the Lorde maye entre as in a thynge forfayte to hym. But if he will aliene hys lande to an other, hym behoueth after some custome to surrender the tenementes in some courte. &c. into the lordes handes to the vse of hym that shall haue the estate in such fourme or to such effect. Ad hanc curiam venit. A. de. B. & sursum reddidit in eadem curia vnum mes wagium &c. in manus domini ad vsum. E. de. A. et heredum suorum vel heredum de corpore suo exeunt vel pro termino vite sue &c. Et super hoc venit predictus E. de A. & cepit de domino in eadem curia mes wagium predictum. &c. habendum & tenendum sibi & heredibus suis, vel sibi & heredibus de corpore suo exeuntibus, vel sibi, ad terminum vite sue, ad voluntatem domini secundum consuetudinem manerii, faciend, & reddendum inde reddit, debit, seruicia, consuetudines inde prius debitas, & de iure consuetas, & dat domino de fine &c. Et fecit domino fidelitatem &c. That is to say A. of B. cummeth vnto thys court, and surrendreth in the same courte a mese. &c. into the handes of the Lorde, to the vse of E. of. A. and hys heyres, or to the heyres, issuynge of hys bodye, or for terme of lyfe &c. And vpon that, cummeth the foresayde E. of A. and taketh of the Lorde of the same court the foresayd mese. &c. to haue and to hold to him and to his heyres, or to hym & to his heires issuing of his body, or to hi for terme of life at ꝑ lordes will after custome of the maner, to doe & yeld

ther-

therfore rētes, dettes, seruices, and customes therof before dewe and accustomed. &c. & geueth the Lorde for a fyne. &c. and maketh vn to the lord his fealtie. &c. And such tenauntes been called tenantes by Copy of court rolle, for that they haue none other euidence concernyng theyr tenementes, but the copies of the court rolles, and such tenauntes shal not implede nor be impleded of theyr tenementes by the kinges writ but if they will implede other for their tenemtes they shal haue a playnt made in the court of the lord in such fourme, or to such effect. A. de. B. queritur versus C. de D. de placito terre, videlicet de vno mesuagio quadraginta acris terre quatuor acris prati. &c. cum pertinenciis. Et facit protestacionem sequi querelam istam in natura breuis domini Regis assise mortis antecessoris ad communem legem, vel breuis domini regis assise noue dysseisine ad communem legem. That is to say. A. of B. complayneth against C. of D. of a plee of lande, that is for to saye of a mese. and. xl. acres of land, fowre acres medowe. &c. with the appurtenances and maketh protestacion to sue his playnt in nature of the kinges writ of assise of the death of his antecessour at the common lawe, or by writte of our souerayn lord the king of assise of noueI disseisin at the common lawe, or in nature of some other writte &c. pledges and proces. F. G. And though that some such tenantes haue inheritance after the custome and maner, yet they

they haue none estate but at the lordes wyl, & after the cours of the common lawe, for it is sayd yf the lorde put them out, they haue none other remedy but to sue vnto the lorde by petition. For yf they had any other remedy, they should not be sayde tenaunts at the Lordes wyll, after the custome of the maner, but the lorde wyll not breake the custome that is reasonable in suche cases. But Brian chyef Justice sayth, that his oppinion alwayes hath been and alwayes shalbe, if such a tenaunt by custome (paying his seruices) bee cast out by the lorde he shall haue an accion of Tresspas agaynst hi. H. 21. E. 4. And likewise was ỹ oppinon of Danby chief Justice. M. 7. E. 4. for he sayth that the tenant by the custome is as wel inherite to haue his lande after the custome as well as he that hath frankstenement by the comon lawe.

TEnauntes by the yarde, be in suche nature as tenauntes by copy of court rolle. But the cause for which they be called tenauntes by the rodde or yarde, is for that whan they wyll surrender theyr tenementes into the lordes hande to the vse of another, they shall haue a litle yarde or rodde, by the custome & vse of theyr handes which they shall deliuer vnto the Stewarde or baylife, after the custome and vse of the maner. And he that shal haue the land shall take the same lande in the court, and his takyng shalbe entred in ỹ rolle And the stewarde or the baylife according to

to the custome shall deliuer vnto hym that taketh the land the same yarde or another yarde in the name of seisin. And for this cause they be called tenauntes by the yarde. But they haue none other euidence but copy of ỹ court rolle.

¶ And also in diuers lordshippes and maners there is such custome, if suche a tenaunt that holdeth by the custome wyll aiyen hys landes or tenementes, he may surrendre hys landes vnto the bailiffe or to the reue, or to two sad men of thesame Lordship, to the vse of hym that shall haue the lande, to haue in fe simple, fee tayle, or for terme of lyfe. &c. and all that shall they presente at the next courte. And than he ỹ shall haue the land by coppe of court rolle, shall haue thesame lande after the entent of the surrendre. And so it is to wete that in diuers lordshippes and diuers maners ther be made diuers customes in such case, as to take tenauntes and as to plede and as touching other thinges and customes to be done and all that that is not against reasō may wel be admitted and alowed. And such tenauntes that holde after the custome of a seignorye or after the custome of a maner though thei haue estate of inheritance after the custome of the lordship or of the maner, yet because thei haue not any freholde by the courte of the common law, they be called tenantes by base tenure.

¶ And diuers diuersities ther be betwene a tenant at wil which is in by the lesse of his

lessour

lessour by the cours of the common law, and tenaunt after the custome and maner in the forme aforesaide. ¶ For tenant at wyl after the custom may haue estate of inheritance as it is aforesayde at the lordes wyl after the custome & vsage of the maner. But if a mā haue lādes or tenementes which be not within such maner or lordship where such custome hath been vsed in the forme aforesayde, and wyl let such landes or tenementes to another, to haue and to holde to hym and to his heyres at the wyll of his lessour these wordes to the heyres of the lesse, be voide for this is the cause if the lessee dye, and his heire entreth the lessour shal haue a good action of trespas against hym, but not so against the heire of the tenāt by the custome &c. in any case for that the custome of the maner in some case may helpe hym to barre hys lorde in any accion of trespas.

¶ Also tenaunt by the custome in some places ought to repayre and sustayn the houses and the other tenaunt at wyl ought not. Also one by the custome shal doo fealtie and the other not. And diuers other dyuersities there be betwene them.

¶ Thus endeth the fyrste Booke.

(.)

Homage.

HOmage is the most honorable seruice and most humble seruice of reuerence, that a franktenaunt maye doe to his lorde. For whan the tenaunt shal make homage to his lorde he shall descende and his head vncouered, & his lord shall sit, and the tenant shall knele before him on both his knees, & holde his handes ioyntly together betwene the handes of his lord, and shall say thus. I be come your man from this daye forwarde of lyfe and lymme & of earthly worship and vnto you shall bee true & faythful, and bere you faith of the tenementes that I clayme to hold of you sauing the fayth that I owe vnto oure soueraygne lorde the kyng. And whan the Lorde so syttyng shall kysse hym.

But yf an Abbot or a priour or any other man of religion shall make homage vnto hys lorde he shall not saye. I become your manne for that he hath professed hymself onely to be goddes man. But he shall say thus, I do you homage and vnto you shall bee trewe & faithfull, and bere you fayth for the tenemētes that I clayme to holde of you. Sauyng the fayth that I owe vnto our soueraygne Lorde the kyng.

¶ Also yf a woman sole shall make homage vnto her Lorde. She shall not saye I become your woman. For that is not conuenient for a woman to saye that she shall become the woman to any but onely to her husbands

bande when she is wedded. But she shal say I make vnto you homage, and to you shalbe true and faythfull and shall bere you fayth of the tenementes that I hold of you, saving the faith that I owe vnto our souerayne Lorde the kyng.

¶ But if a man haue seueral tenācies which he holdeth of seueral lordes, that is to say euery tenancy by homage. Than whan he maketh homage vnto one of his Lordes he shall say in the end of his homage. Sauing the faith that I owe vnto the king and vnto my other lordes.

¶ And note wel that none make homage but such as hath estate in fee simple or in fee tayle in his own right or in another mannes right. For it is a grounde in the lawe, that he that hath estate but for terme of lyfe, shall make none homage nor take none homage. For yf a woman haue landes or tenementes in fee symple or in fee tayle which she holdeth of her Lorde by homage and taketh an housbande and hath issue, than the husbande in the lyfe of the wyfe shal make homage, for that he hath tytle to haue the lande by the curtesy yt he suruyue hys wyfe. And also he holdeth in ye ryght of hys wyfe. But afore yssue betwene them, the homage shal be made in both theyr names. But yf the wyfe decease before homage made by the husband in the wyues iure, and the husband holdeth hymself in as tenant by the curtesy he shall make no homage vnto

his lord, for that he hath than none estate but for terme of lyfe. More shalbe sayd of homage in the tenure of homage auncestrel.

¶ Fealtie. Cap. 2.

FEaltie is as much to say as fidelitas in latin, and whan a frankftenaunt shall make fealtie vnto the Lorde he shal hold his right hande vpon a boke and shall say thus.

¶ Heare you this my lord, that I vnto you shalbe faithfull and trewe, & beare you fayth of the landes or tenementes that I clayme to holde of you, and truely to you shall dooe the customes and seruices that I ought to dooe vnto you at termes assigned, as god me helpe and al his sainctes, & than he kisseth the boke. But he shall not knele whan he maketh hys fealtie, nor shall make such humble reuerēce as is aforesayde in homage. And great diuersitie there is had betwene makyng of fealtie & of homage. For homage may not be made but to the lorde hymselfe. But the Stewarde of the lordes court or the bailife may take fealtie of the lorde.

¶ Also tenant for terme of life shall make fealtie, and yet he shall make none homage & diuers other diuersities ther be betwene homage, and fealtie.

¶ Also a manne maye see a good note. Anno. 15. E. 3. where and howe a manne and his wife made homage and fealtie in the cōmō bank, which is writtē in such forme. Note

that

that John Lewknor and Elizabeth his wife made homage vnto William Thorpe in thys maner. The one and the other hylde ioyntlye their handes betweene the handes of William Thorpe, and the husband sayd in this wyse. we vnto you make homage and beare you fayth for the landes that we holde of A. your Conusour which hath graunted you our seruices in B. and in C. and the other townes. &c. against all men, sauing the fayth that we owe vnto our souerayne lorde the kyng and to his heires and to our other lordes, and the one and the other kissed hym. And after they made fealtie, and the one and the other hylde their handes together, vpon a boke, and the husbande sayde the woordes and both kyssed the boke. More shall be sayde of fealtie in the tenure of Socage and in the tenure of franke almoyne, and in the tenure of homage Auncestrell.

¶ Escuage.

Escuage is called in latin Scutagium, that is to say seruice of shielde. And such a tenãt that holdeth his lande by escuage, holdeth by knightes seruice. And also it is comenly sayd that some hold by a fe of knightes seruice and some by the halfe fee of knightes seruice. &c. And it is said that whã ꝑ kyng maketh a voyage roial into Scotlãd for to subdue ꝑ Scots he that holdeth by a fee of knightes seruice, behoueth to bee with the king by .xl. dayes well and couenably arrayed for the war. And

ykewyse he that holdeth his lande by the halfe of a fee by knightes seruice, ought to be with the kyng by .xx. dayes. And he that holdeth hys lād by the fourth part of a fe by knightes seruice, hym behoueth to be with the kyng by x. dayes. And so after the quantitie, he that hath more to do more and he that hath lesse to do lesse. But it appeareth by the plees and argumentes made in a good plee vpon a wryte of Detenue of an obligacion brought by one Harry Gray. Anno. 7. E. 3. That it nedeth not to hem that holdeth by escuage to go hymselfe yf he wyll fynde an able parson for the warre conenably arrayed for the warre to go wyth the kyng, and that semeth good reason. For it may be that he that holdeth by such seruice is sycke in suche wyse, that may not go nor ryde.

¶ And also an Abbot or any other man of religion or a woman sole that holdeth by such seruyce, ought not in such case to go in proper parson. And syr William Herle that time chief Justyce of the common place sayd in the sayd plee that escuage shall not bee graunted but where the kyng hymself goeth in proper parson. And so it abode in iudgement in the same plee yf these .xl. dayes shalbe accompted from the day of the muster of the kinges host made by the commons and by the kynges commaūdement. Or els from the day that the kyng fyrst entreth into Scotlande. &c. therefore inquere of this matter.

¶ And after suche voyage into Scotlande

It is commonly sayde, that by the auctoritye of parliament the escuage shall be set and put in certayne, that is for to saye a certayn somme of money, howe much euery that holdeth by a whole fee of knyghtes seruice which was not in his own proper parsõ, nor none other with hym with the kyng shall paye vnto the Lorde of whom he holdeth his lande by escuage. As put case that it was ordeined by auctoritie of parliament that euery that holdeth by a whole fee by knyght seruice which was not with the kyng, shall pay to his lorde. xl. s. Than he that holdeth by the halfe of a fee by knyghtes seruice shall paye vnto his lorde but xx. s. and so who more more, and who lesse lesse. And some tenauntes hold that yf escuage renne by auctoritie of parliament to any summe of money that they shall paye but the halfe of that sõme & sõme but the fourth part of that sõme. But because the escuage that they shall pay is not certayne for that it is at no certayn what the parliament wil assese the escuage they holde by knyghtes seruice. But otherwyse it is of escuage certayne of which shalbe spoken of in the tenure of socage.

¶ And yf a man speake generally of escuage it shall bee vnderstande by the common speache of escuage not certayne whiche is knyghtes seruyce. And suche escuage draweth vnto hym homage, and homage draweth vnto hym fealtie, for fealtie is incident to euerye maner of seruyce, but to the tenure of

franke

franke almoygne as it shalbe sayde hereafter in tenure of franke almoygne. So as he that holdeth by escuage holdeth by homage, fealtie, and escuage.

¶ And it is to be vnderstande that whan escuage is so sessed by aucthoritie of parliamēt euery lorde of whom the lande is holden by escuage shall haue the escuage so sessed by the parliament because it is vnderstande by the lawe that at the beginning such tenementes were geuen by the lordes to hold by such seruices to defende theyr lordes as well as the kyng and to set in quiet and rest theyr lordes and the kyng of the Scottes aforesayd. And for that suche tenementes came fyrst of the Lordes, it is reason that they haue the escuage of theyr tenementes.

¶ And the lordes in such case may distrein for the escuage so assesed or thei may haue the kinges writtes directe vnto the Sherifes of the Shyres to leuy suche escuage for them as it appeareth by the register. Fol. 88.

¶ But of such tenauntes that holde of the kyng by escuage which wer not with the kīg in Scotlande, the kyng himself shall haue the escuage.

¶ Item in suche case aforesaide, where the kyng maketh a voyage royall into Scotland, and the escuage is assested by the parlament, if the lorde distrayne his tenaunt that holdeth of hym by seruice of a whole knightes fee for ẏ escuage so assessed. &c. And the tenāt pledeth

and

and will auerre that he was with the kyng in Scotlande .xx. by .xl. dayes, and the lord will auerre the contrarie, it is ſayd that it ſhall bee tryed by the certificacion of the conſtable of the kynges hoſte, in writing vnder hys ſeale which ſhalbe ſent to the iuſtices.

Homage fealtie, and eſcuage.

TEnure by homage, fealtie and eſcuage, is to holde by knightes ſeruice: it dyaweth vnto him warde, mariage, and relief. For whā ſuch a tenant dyeth his heire male being with in age of .xxi. yere, the lord ſhall haue the lande holden of hym vntyll the age of the heyre of xxi. yere, which is called plaine or ful age for that ſuch an heire by the vnderſtanding of the lawe, is not able to do knyghtes ſeruyce before the age of xxi. yere.

And alſo yf ſuche an heyre be not maryed at the tyme of the death of his auncetter than the Lorde ſhal haue the warde and maryage of hym. But yf ſuche a tenaunt dye, hys heyre female beyng of the age of .xiiii. yeare or more than the Lorde ſhall not haue the warde nother of the lande nor of the body, for that a woman of ſuche age maye haue an huſbande able to dooe knightes ſeruyce. But yf ſuche an heyre female bee within the age of xiiii. yeare and not maryed at the tyme of the deth of her anceſter, thā the lord ſhal haue the

warde

warde of the lande holden of hym tyl the age of ſuch an heyre female of. xvi. yere. For that it is geuen by the ſtatute of weſtmynſter the fyrſt. cap. 22. that by two yere next folowyng the fayde. xuii. yere, the Lorde maye tender a conuenyent mariage without dyperagyng of ſuche an heyre female. And yf the lord do not tender her ſuche mariage within the ſaid two yere, than ſhe at the ende of the fayd two yere may enter and put out the lorde. But yf ſuche an heyre female be maryed within the age of xiiii. yere in the lyfe of the aunceſter, and the aunceſter dye ſhe beyng within the age of xiiii. yere the lorde ſhall haue but the warde of the lande tyll a ende of. xiiii. yere of age of ſuche an heyre female. And than her huſband and ſhe may enter into the lande and put out the lorde, for this is out of the caſe of the ſtatute. Inſomuch that the lorde can not tender mariage to her that is maryed. &c. For before ỹ fayd eſtatute of weſtmiſter the fyrſt ſuch iſſue female that was within age of. xiiii. yere at the tyme of the death of her aunceſter, and after that ſhe had accõpliſhed the age of. xiiii. yere without any tender of mariage to her by the Lorde ſuche an heire female than myght enter into the lande and put out the lorde as it appeareth by the reherſal & by the wordes of the ſame eſtatute. So that the fayde ſtatute was made in ſuch caſe all for the auauntage of the lorde as it ſemeth. But yet that at all tymes is vnderſtande by the wordes of the

ſame

same estatute, that the Lorde shall not haue the two yere after the. xiiii. yere as it is aforesayde.

¶ And note well that the full age of heyre male and female after the common speache, is sayde the age of. xxi. And the age of discrecion is sayde the age of. xiiii. yere for a childe at such age whiche is wedded within suche age to a woman may agree to the maryage or dysagree.

¶ And yf the wardeyne in chiualrye mary once his warde within the age of. xiiii. yere, & after the age of. xiiii. yere he disagreeth to the maryage. It is sayde by some folke that the chylde is not holden by the lawe to bee maryed another tyme by his wardeyne, for that the wardeyne had once the mariage of hym, and therfore he was out of his ward as concernyng the warde of his body. And whan he had once the mariage of hym & therfore was out of his ward he shall no more haue the mariage of hym. In the same maner it is yf the wardeyne marye hym and the wyfe dye, the childe beyng within age of. xiiii. yere, or. xxi. yeres. And that the chylde maye disagree to such mariage whan he come to the age of. xiiii yere it is proued by the wardes of the statute of Marton Cap. 6. that sayth thus. De dominis qui maritauerint illos quos habent in custodia sua villanis & alijs sicut burgences vbi disparagētur, si tales homines furit infra. 14 annos et talis etatis q̄ matrimonio ꝯsētire nō possint,

possint, tunc si parentes illius conquerantur dominis ille amittat custodiam illam vsq; ad etatē heredis. Et omne cōmodū q̄ inde receptum fuerit conuertatur in cōmodū heredis infra etatem existentis secundum dispositionem parentum propter dedecus et impositum Si autem fuerit. xiiii. annorum et vltra qua consentire poterit, et tali maritagio consenserit, nulla sequatur pena. And so it is proued by the same statute that no dysperage shalbe but where that he that hath the warde marieth hym within the age of. xiiii. yeare.

¶ Also it hath bene a question howe these wordes should be vnderstande. Si parentes conquerantur. &c. And it semeth vnto some that consideryng the statute of Magna carta cap. vi. that wylleth that heredes maritentur absq; disperagacione. &c. vpon which this said statute of Marton vpon this point is grounded as it semeth and in so muche that it was neuer sene that any accion was brought vpō the statute of Marton for suche disparagyng agaynst the wardeyne, and yf any accion may be taken vpon suche matter it shal be taken by commune presumpcion before this time, or at some time to bee put in vre, that these wordes shal be vnderstande in such maner. Si parentes conquerantur. i. Si parentes inter se lamentantur, which is as muche to saye that yf the cosyns of suche a child haue cause to make lamentacion and complaynt among them for the shame done to theyr cosyn so dysparaged

which

which is in a maner a ſhame to them all, than may the nert colyn to whō the heritage may not diſcende, enter and put out the wardeyn in chiualry. And yf he wyll not, another colyn of the chyldes may dooe it and he to take the iſſues and profytes vnto the vſe of the chylde and of that yeld the chylde accompt whan he commeth vnto his full age. Or els the chylde within age may enter himſelf and put out the wardeyn. &c. Sed quere de hoc.

¶ Alſo there is many other diuers diſperagynges, which be not ſpecifyed in the ſame eſtatute. As yf the heyre that is in warde be maryed vnto one that hath but one foote, or one hād or is deformed or lame, or hauing an horrible diſeaſe. or els a great and continuall infyrmitie or yf the heyre male bee maryed to a woman paſſed chylde bearyng. And manye other cauſes of diſperagyng ther be, but inquier for them for it is good matter to learne. And of heyres males that be wīn age of .xxi. yere, after the death of theyr aunceſters vnmaryed. In ſuch caſe the lord ſhal haue the maryage of ſuche an heyre, and haue ſpace & tyme to tender to hym couenable maryage without dyſperagyng within the ſame tyme of .xxi. yeare.

¶ And it is to wytte that the heyre in ſuche caſe may chooſe yf he wyll bee maryed or no. But yf the Lorde whyche is called wardayne in Chiualrye tender a couenable Maryage to ſuche an heyre,

within

within the age of.xxi.yere without dyspera-
gyng and the heyre refuse. and mary not hym
self within the same age. Than the sayd war-
deyne shall haue the value of the maryage of
suche an heire. But if suche an heire male ma-
ry himself within the age of.xxi.yere against
the wyll of the wardeyne in chiualrye. Than
shall the wardeyne haue double the value of
that mariage by the force of the estatute of
Marton aforesaide, as in the same statute is
more fully comprised.

¶ Also diuers tenãtes hold of their lordes
by knightes seruice, and yet thei holde not by
escuage nor paye no escuage as they that hold
theyr landes by castel warde that is to saye to
kepe a towre of a castle or a gayle, or some o-
ther place by reasonable warnyng whã theu
lordes here tell that enemies wyl come or be
come into England. And in many other cases
a man may holde by knightes seruice, and yet
he holdeth not by escuage nor payeth no escu-
age as shalbe sayde in the tenure of graunde
sergeauntie. But in all cases where a manne
holdeth by knyghtes seruices suche seruices
drawyth to the Lorde warde and mariage.
And yf a tenaunt that holdeth of his lorde by
seruice of an whole knightes fee dye, his heir
beyng at ful age of.xxi.yere his heyre shal pay
vnto his lord. C.s. for a relefe & he that hol-
deth by the half fee shall pay.l.s.

¶ Also yf a man holde his land of his lord
by the seruice of two knightes fees than the

heire

heyre at full age at the tyme of the deathe of hys auncestre, shall pay to hys Lorde .x.li. for reliefe.

¶ Also if there be graundfather, mother, and sonne, and the mother dyeth liuing the father of the sonne, and after the grauhdfather which held hys lande by knightes seruice dyeth seised and the lande descendeth to the sonne of the mother, as heyre to the grandfather which is within age. In such case the lord shal haue the warde of the land but not the warde of the heyre. For that none shalbe in ward of his body liuing hys father, because the father durynge hys lyfe, shall haue the mariage of hys heyre apparaunt, and not the Lorde. Otherwyse it is if the father be dead liuyng the mother, where the land holden in chiualrye descendeth to the sonne on the fathers syde, &c.

¶ Also if a manne be seysed of land which is holden by knyghtes seruice, and maketh feoffment in fee to hys vse, and dyed seysed to the vse of hys heyre within age, & no will by hym declared, the lord shall haue a writte of ryght, of the body and the land. Lykewyse, if the tenaunt had dyed seysed of the demeine. And if the heyre be of full age at the death of hys auncestre: In such a case he shall paye relicfe, likewise if he had been seised of the demeine, and that is by the statute of Anno. 4. H. 7. Cap. 7.

¶ Also there is a warden in ryght chiualry, & warden in dede in chiualry, warden in ryght chiualrye, is where the Lorde because of hys

lordship is seised of the ward of ye land, & the heyre vt supra. warden in dede in chiualry, is where the lorde in suche case after hys seysyn granteth by dede or without dede the warde of the land or of the heyre or of bothe, to another man by force of which graunt, the graunte is in possession, than is the graunte called warden in dede. &c.

¶ Tenure in socage. Cap. 5.

TEnure in socage, is where the tenant holdeth of hys lorde hys tenauncy by certayn seruice for all maner of seruice so that the seruice bee not knyghtes seruice. As where a manne holdeth his lande of his Lorde by fealte and certayne rente for all maner of seruice, or elles where a manne holdeth hys lande by homage fealtee, and certayne rente for all maner of seruices, for homage by hymself maketh not knightes seruice.

Also a mā may hold of his lord only by fealte, & such tenure is tenure in socage, for euery tenure ye is not tenure in chiualry, is tenure in socage. And it is sayd that the cause wherfore such tenure is sayd and hath the name of tenure in socage is thus. Quia hoc socagium idē est q̄ seruicē soce. Et hec soca soce idē est q̄ caruca. s. one soke or one plough land. And in old time before ye lamitaciō of tyme of mynd,

great

great part of the tenantes that hyld of theyr lordes by ſocage, oughte to come with theyr plowes euery of the ſayd tenantes by certain dayes in the yere, to eyre and ſowe the lordes landes of hys owne graynes. But for that ſuche wooркes were doone for the ryuelode and ſuſtenaunce of their lordes, they were acquited againſt their lorde of all maner of ſeruices. And for thys that ſuche ſeruice was doone with their plowes, ſuche tenure was called tenure in ſocage. And after that ſuche ſeruice were chaunged in dyuers other maner ſeruice by conſent of the tenauntes, and by the deſyre of theyr lordes, that is to ſay into a perciye rente &c. But yet the name of ſocage abydeth, and in dyuers places tenantes yet dooe ſuche ſeruice with theyr plowes vnto their Lordes, ſo that all maner of ſeruices that be not tenures by knyghtes ſeruice be called tenures in ſocage.

¶Alſo if a manne holde of hys Lorde by eſcuage certayne. That is to ſaye in ſuche fourme, that when eſcuage renneth and is aſſeſſed by the parlyamente to a more ſumme or to a leſſe ſumme, that the tenaunte ſhall paye to hys Lorde, but halfe a marke for eſcuage, and neyther more ne leſſe, to howe great ſumme or little ſumme that the eſcuage runneth in thys caſe, becauſe the eſcuage is in certayne, before that anye eſcuage is aſſeſſed. &c. Such tenure is tenure in ſocage and not knyghtes ſeruice. But where the

somme that the tenant shall paye for escuage, is not certayn, that is to say where it may bee that the somme that the tenant shall paye for escuage may be at one time more and another lesse, after that it is assessed &c. thā such tenure is tenure by knyghtes seruice.

¶ Also if a man hold hys land for to pay certayn rent to hys lord for castel warde, such tenure is tenure in socage. But where the tenantes selfe ought by hym or by any other to make castel warde, such is tenure by knightes seruice.

¶ Also in all cases where the tenant holdeth of hys lorde to paye to hym any certayn rent, that rent is called rent seruice.

¶ Also in such tenures in socage, if the tenāt haue issue and dye, hys issue beyng within the age of .14. yere, than the next frend of ꝯ heyre to whom the heritage may not discende shall haue the warde of the land, and of the heire, vnto the age of the heyre of .14. yere, and suche wardeyn is called warden in socage. For yf land discend to the heyre by the father syde, than the mother, or some other nygh cosyn of the mother syde shall haue the warde, And yf land discend to the heyre by the mother syde than the father or the next frēd of the fathers syde shall haue the ward of such landes or tenemētes. And whan the heyre cometh to the age of .14. yere complet, he may enter and put out hys wardeyn in socage, and occuppe the land hymselfe if he will. And such warden in

socage

socage shall take no issues or profites of suche landes or tenementes to hys owne vse, but onely to the vse and profyte of the heyre, and of that shal yeld account whan it pleaseth the heyre after that the heyre hath accomplyshed the age of.14.yere. But such a wardeyn vpon such accounte shall haue allowance of all hys reasonable costes and expences of al thynges. And if such a wardeyn mary the heyre within age of 14.yere, he shall make account to the heyre or to his executours of the value of the mariage, though he toke nothyng for the value of the mariage, for that it shall be erected hys own foly, that he would marye him without takyng the value of the mariage without he marye hym to such a mariage that is worthy in value as much as the mariage of the heyre &c. Also if anye other man that is not a nygh frend &c. occupy the landes and tenementes of the heyre as wardeyn in socage he shall be compelled to yeld account vnto the heyre, as well as hys next frend. For it is no plee for hym in a writte of account to saye that he is not hys nygh frend &c. But he shall answere whether he occupyeth the landes or tenemẽtz as warden in socage or not. But inquire if after that the heyre haue accomplyshed the age of.14.yere, and the warden in socage continually occupyeth the lande tyll the heyre cometh to full age of.xxi.yere. If the heyre at hys full age shall haue an accion of accounte agaynst the wardeyn of the tyme that he hath occupy-

ed after the layde fowrtene yeres, as agaynſt hys warden in ſocage, or agaynſte hym as a gaynſte hys baylyfe.

¶ Alſo if wardeyn in chiualrye make his executoures, and dye, the heyre beyng within age &c cetera, the executoures ſhall haue the warde, durynge the nonage. But if the wardeyn in Socage make executoures and dye, the heyre beeyng within age of fourtene yeres, hys executoures ſhall not haue the warde, but an other nigh frende to whom the heritage maye not deſcende, ſhall haue the warde. And the cauſe of diuerſitie is, for that the wardeyne in chiualrye hathe the warde to hys proper vſe, and the wardeyne in Socage hathe not the warde to hys owne vſe, but to the vſe of the heyre. And in ſuch caſe, where the wardeyne in Socage dyeth before anye ſuche accoumpte made by hym, the heyre is of that withoute remedye, for that no wrytte of accoumpte lyeth agaynſte the executoures, but onely for the kynge. Alſo the Lorde of whome the lande is holden in Socage after the deathe of hys tenaunte, ſhall haue relefe in ſuche fourme. If the tenaunte holde by fealtee, and certayne rent to pay yerely, &c cetera. If the termes or payment bee to paye by two termes of the yere, or by fowre tearmes of the yere, the Lorde ſhall haue of the heyre of hys tenaunte, asmuch as the rent amounteth that he ſhoulde paye by yere. As if the tenaunte hylde of the

lorde

lorde by fealtie, and.x. shyllinges of rent payable at certayn termes of the yere, than the heyre shall paye to the Lorde.x.shillinges for relefe aboue thes ten shyllynges that he shal paye for the rente. Looke more in the statute of Anno.xix.Henrye the seuēth.Capitulo.xv. And in suche case after the deathe of the tenaunte, such relefe is due to the lord incontinent, of what age soeuer the heyre bee, for that such a lorde may not haue the warde of the bodye nor the lande of the heyre. And the lord in such case ought not to abyde the payment of hys relefe after the termes & dayes of payment of the rent. but he ought to haue hys relefe incontinente. And therefore he maye incontinent dystrayne after the deathe of his tenaunte for the relefe. In the same maner it is, where a tenaunt holdeth of hys lord by fealte, and by a pounde of cummyn, or a pound of pepper by the yere, and the tenant dye the lord shal haue for his relefe a pounde of comin or a pound of pepper.

In thesame maner it is, where the tent holdeth to pay by yere a certayn noumber of capons or hēnes, or a payre of gloues, or certain bushels of wheate, & suche other maner thing. But in some case the lorde ought to abyde to dystrayne for hys relefe tyll a certayne tyme. As if the tenaunte holde of hys lorde by a rose or by a bushel of roses to pay at the feast of S. John baptist. If such a tenaunte dye in winter, than the lorde may not dystrayne for

hys relefe &c. vntyl the tyme that the rose by the course of the yere may haue theyr growinges. &c. Et sic de similibus. Also if any paraduenture wyl aske why a man may not hold of his lord by fealte only for al maner of seruices, inlomuch whan the tenant shal make his fealtie he shal sweare to hys lord that he shal dooe all seruices due, and whan he hath made fealtie in such case, there is none other seruice due. To thys it may be sayde, that where the tenant holdeth hys land of hys lord, yt behoueth that he ought to dooe to hys lorde some maner of seruice, for if the tenaunte nor hys heyres ought to dooe no maner of seruice to hys lord nor to hys heyres, than by long time continued it shoulde be out of remembraunce of whom the land was holden, of the lord or of hys heyre or not, and than more after and more soner wyll men say that the land is not holden of the lord nor of hys heyres thā other wyse and vpon thys the lord shall lose hys eschete of the lande, or percase other forfayture or profyt that he myght haue of the land. So it is reason that the lord and hys heyres haue some seruice done vnto hym for a proofe and a wytnes that the land is holden in frankalmoygne as shalbe said in frank almoygne, and because that the lord wil not at the begynnig of the tenure haue any other seruices but fealtie, it is reason that a manne may hold of his lord only by fealte, and whā he hath made his fealte, he hath done all hys seruice.

Also

¶ Also if a man lette to another for terme of lyfe certayn landes or tenementes without speakyng of any thyng to yelde to the lessours pet he shall doe to the lessour fealte, for that he holdeth of hym. Also if a lease be made to a mā for terme of yeres it is sayd the lessee shall do to the lessour fealte, for ỹ he holdeth of hym. And thys is proued well by the wordes in a wrytte of waste when the lessour hath caused to bryng a wrytte of waste agaynst hym the which writte shall say that the lessee holdeth the tenemẽtz of the lessour for terme of yeres. So the writte proueth a nature betwene thē &c. but he that is tenant at wil after the course of the common law, shall make not fealte, because he hath no maner of sure estate. But otherwyse it is of tenaunt after the custome of the maner, because that he is bound to dooe fealte to hys lorde for two causes, one is because of custome, the other is because before that he take hys estate in such fourme to dooe fealte.

¶ Frank almoygne. Cap. 6.

TEnure in Frank almoygn, is where an abbot or prior, or another man of religion, or of holy churche holdeth of hys lorde in Frank almoygne, that is to say in latine. In liberam elemosynam, that is to say in free almes. And such tenure began fyrst in olde tyme was seised whan a man in olde tyme was seyed of landes or tenementes in hys demeine, as of

fee,

fee, and of the same lande ensucked an abbot & his couent a pryour and his couent to haue & to hold of them and their successours in pure & perpetuall almes, or in frank almoygn, or by such wordes to hold of the grantour or of the lessour & his heyres in free almes. In suche case the tenementes wer holden in frank almoygn, & in the same maner it is, where the landes or tenementes wer granted in old tyme to a dean & Chapter & to theyr successours or to a parson of a church and to his successours or to any other man of holye churche & to his successours in free almes if he had capacitie to take such grauntes or feoffementes. &c. & such as hold in free almes be bound of right afore god to doe ozysons, prayers, & malles & other diuine seruice for the soules of the grauntours or feoffours, or for the soules of theyr heyres which be dead, and for the prosperitie & good life of them that be alyue.

¶ And for thys, they dooe at no tyme no maner of fealte vnto theyr lordes for ỳ suche diuine seruice is better for them beefore God, than any dooing of fealte, and also that these woordes free almes, or frank almoygn exclude the lord to haue any worldly or temporal seruice but only to haue diuine and spiritual seruice to be done for hym. &c. And if suche that holde theyr tenementes in free almes, or franke almoygne will not or fayle to doe such diuine seruice as it is sayde the lorde may not distrayne them for the seruice vndone. &c. be-

cause

cause it is not set in certayn what seruice they ought to dooe but the lord may of that complayne to theyr ordinarye, praying hym that he will sette punyshemente and correccion of that, And also to prouyde and see that suche negligence be no more done, and the ordinary of right ought to done that &c.

¶ But where an abbot or a pryour holdeth of hhs lord by certayn diuine seruice in certayne to be done, as for to syng a masse euery fryday in the weke for ye soules &c. or euerye yere at such a daye to sing Placebo & Dirige &c. or to find a chaplayne to syng masse &c. or to distribute in almes to an hundred poore men an hundred pence at such a day, in such cas if such diuine seruice be not done the lord maye dystrayne &c. for that this diuine seruice is in certayn by their tenure what ye abbot or the prioure oughte to dooe. And in suche case the Lorde shall haue the fealie. &c. as it seemeth. And suche tenure is not sayde tenure in free almes, but it is sayde tenure by diuyne seruice, for in tenure in free almes, or franke almoygne, no mencyon is made of anye manner certayne seruyce, for none maye holde in free almes or franke almoygne if there be expressed anye maner certayne seruice that he ought to dooe.

¶ Also if it be demaunded if the tenaunte in franke mariage shall dooe fealtie to the donour or to hys heyres before the fowerth degre be passed &c. it semeth that ye, for he is not

lyke

lyke as to thys entent to a tenaunt in free almes or frank almoygne for that the tenant in free almes shall dooe, because of hys tenure diuine seruice for hys lord as it is aforesayd, and that he is charged to dooe by the lawe of holy churche, and for that he is excused and dyscharged of fealte. But tenant in frank mariage doeth not by hys tenure suche seruice. And if he dooe not to hys lord fealte, than he doeth not to hys lorde any maner of seruyce neyther spiritual nor temporal, which should be an inconuenience and agaynst reason that a man should haue estate of inheritance of an other, and yet the lorde shall haue no maner of seruice of hym as it semeth, & so it semeth, that he shall dooe fealte to his lord before the fowerth degree be past. &c. And whan he hath done fealte, he hath done all hys seruice. And if an abbot hold of hys lord in fre almes, and the abbot and hys couent vnder theyr cõmon seale alien thesame land, to a secular man in fee symple, in thys case the secular man shall dooe fealte to ꝯ lord for that he may not hold of hys lord in free almes, for if the lord ought not to haue of hym fealtee, than he shal haue of hym no maner of seruice which should bee an inconuenience where he is lord, and the tenement is holden of hym.

¶ Also if a man graunt at his day to an abbot or to a pryour, landes or tenementes in free almes or franke almoygne, these wordes free almes or franke almoygne be voyde, for that

it is

it is ordeyned by the statute which is called Quia emptores terrarū whiche statute was made. Anno. 18. regis E. primi. That no man may alien or graunt landes or tenementes in fee symple to hold of hymself, so that if a man sesed of certayn landes or tenemētes which he holdeth of hys lorde by knyghtes seruice & at hys day he graunteth thesame lande to an abbot &c. in free almes or frank almoygne, the abbot shall holde immediatlye thesame tenementes by knyghtes seruice of the lord of his grantour because of thesame estatute, so that no man may holde in free almes or in franke almoygne, but if it be by tytle or prescripcion, or by force of a graunt made to some of hys p̄decessours beefore thesame statute. But the kyng maye geue landes or tenementes in fee symple to hold in fee almes or frank almoygn or by other seruice for he is out of the case of the statute, and note well that no man maye hold landes or tenementes in free almes, but of the grauntour or hys heyres, and that for the priuitie of the gyft, and therfore it is said that if ther be lord meine and tenant, and the tenant is an abbot that holdeth of hys meine in frankalmoygne, if the meine dye without heyre than the menaite shall come by eschete to the said lord aboue, and the abbot than shal hold of hym immediatly only by fealte, & shall dooe hym fealte, for that he may not holde of hym in frank almoygne. &c.

¶ And note well, where that such a man of

religi-

religion holdeth hys landes of his lord in frē almes &c. his lord is boūdē by the lawe to acquite hym of euery maner of seruice that any lord aboue hī will demaūd or aske of the same tenātes. And if he acquite hym not but suffreth hym to be dystrayned &c. than he shal haue agaynst hys lorde a writte of mesne, and recouer hys damages and costes of hys suite.

¶ Homage auncestrel. Cap. 7.

TEnure by homage auncestrell is, where a tenaunt holdeth his land of his lord by homage, and the same tenant and hys auncestres whose heyre he is hath hold of the same lande of the sayd lord and of his auncestres, whose heyre the lord is from time out of mynd by homage & haue done homage vnto hym which is called homage auncestrell because of the continuance which hath been by tytle or prescription in the tenancie, in the blood of the tenāt, & also in the lordshyp in the blood of ꝑ lorde. And such seruice by homage aūcestrel draweth to hym warranty if the lord that is alyue hath receyued homage of suche a tenaunt, he ought to warrant his tenant whan he is impleded of the landes holden of hym by homage aūcestrel. And also suche seruice by homage aūcestrel drawyth to hym acquittance. that is to say, the lorde ought to acquyte hys tenaunt agaynst al other lordes aboue hym of euery maner of seruice. And it is sayde that ꝑ such tenaunt be impleded by a Precipe quod reddat

reddat &c. and he voucheth hys lorde to warranty, which cometh in by processe and asketh of the tenant what he hath to bynde hym to warrantye, and he sheweth howe he and hys auncestres whose heyre he is haue holden the lande of the vouchee and of hys auncestres, whose heyre he is by homage fro tyme out of mynd, if the lord which is vouched receyueth none homage of the tenant, nor of any of hys auncestres, the lord than if he will, may dysclayme in the lordshyp, and so put out his tenant of hys warranty. But if the lorde which is vouched hath receiued homage of the tenant or of any of hys auncestres, than may he not disclayme but he is boũd by the lawe to warrant the tenant, & than if the tenaunt lese the land in defaut of the vouche he shal recouer in value against the vouche of the landes or tenemẽtes that the vouche of the lãdes & tenemẽtes that the vouche had at the tyme of the vouche or any time after. And it is to wete, that in euery case wher the lord may disclaym in hys lordshyppe by the lawe in courte of record, & of that will dysclayme hys seignory is extinct & the tenant shal hold of his lord next aboue the lord which so disclameth. But if an abbot or a pryour be vouched by force of homage auncestrel &c. though he hath neuer take homage & cetera, yet he can not dysclayme in this case nor in none other case for they cãnot deuestle that thing in fee which hath been vested in their house. Pasche. x. E. quarti.

Also

¶ Alſo if a man that holdeth hys lande by homage aunceſtrell alyeneth hys lande to another in fee the alien ſhall dooe homage to his lorde. But he holdeth not of hys lord by homage anceſtrell for that the tenancy was not continued in the hold of the aūceſtres, of the alien, nor the alien ſhall neuer haue the warrantie of hys land of hys lord, for that the cōtinuance of the tenancye in the tenant and in hys blood by the alienacion is dyſcontinued, and ſo ſee that the tenaunte that holdeth hys lande by homage aunceſtrel of hys lorde. and ſuch a tenaunt alieneth in fee, though that he take eſtate of the aliene agayne in fee he holdeth the land by homage, but not by homage aunceſtrell.

¶ Alſo it is ſayd, that if a man hold hys lande of hys lorde by homage and fealte, & he hath made homage and fealte vnto hys lorde & the lord hath ſſue a ſōne, and dyeth, and the lordſhyp diſcendeth to his ſonne. In thys caſe the tenant which dyd homage to the father, ſhall not dooe homage to the ſonne for that whan a tenant hath made ones homage to hys lord, he is excuſed for terme of hys lyfe to make homage to any other heyre of the lorde. But yet he ſhal dooe fealte to the ſonne and heyre of hys lord though that he made fealte to hys father.

¶ Alſo if the lorde after the homage to hym made by hys tenant graunt the ſeruice of his tenaunt by deede vnto another in fee, and the

tenant

tenant attorneth. &c the tenant ſhal not be cõ pelled to doe homage but he ſhal dooe fealtye though he dyd fealte before to the graũtor for fealte is incidẽt to euery attornemẽt whan the lordſhip is graũted. But yf a mã be ſeiſed of a manour, and another man holdeth his land of hym as of the manour aforeſayde by homage, ẏ which hath done homage to his lord which is ſeaſed of the manour if after that a ſtraũ- ger bryng a Precipe quod reddat agaynſt the lord of the manour & recouereth the manour agaynſt hym and ſueth execution &c. in thys caſe the tenaunt ſhall once again doe homage to him that recouereth the manoure for that the ſtate of hym which receiued homage be- fore is defeted by the recouere. And it ſhall not lye in the mouth of the tenaunt to falſefy or defete the recouere which was againſt his lord, and ſo ſe the diuerſite. In this caſe wher a man commeth to his lordſhip by recouere, & wher he commeth by diſcent or graunt of the ſeygnorye.

¶ And if a man tenant which ought by his tenure to do homage to his lord come to hys lord and ſay to him, ſyr I owe to do vnto you homage for the tenementes that I hold of you and I am redy to do you homage for the ſame tenementes for the which I pray you that ye wil now receiue it and yf the lord than refuſe to receyue it, than after ſuche refuſe the lorde may not diſtrayn the tenaunt for the homage before that the lord require the tenant to doe

homage and the tenant refuse to do it.

¶Also a man may holde his lande by homage aunceſtrell and by eſcuage or by other knyghtes ſeruice as well as he myght holde hys lande by homage aunceſtrel in Socage.

¶Graunde sergeauntie. Cap.8.

TEnure by graunde sergeauntie is where a man holdeth his landes or tenementes of our ſouerayne lorde the kyng, by the ſeruyce which he ought to doe in his owne proper p̄ſon, as to bere the kynges baner or his ſpere, or to lede his hoſte, or to be his marchall, or to beare his ſworde before hym at his coronacion, or to be his ſewer at his coronacion, or his keruer, or butler or to be one of his chāber laynes of his reſcept of his eſcheker, or to doe ſuch ſeruices. &c. and the cauſe wherfore ſuche ſeruice is called great ſergeaunt, is for that it is more honorable and worſhipfull, & dygne, than is the ſeruice of the tenure by eſcuage for he that holdeth by eſcuage is not limitted by his tenure to doe any more eſpeciall ſeruyce than any other that holdeth by eſcuage ought to doe. But he that holdeth by graunde ſergeaunty, ought to do a ſpecial ſeruice to ỹ king. But he ỹ holdeth by eſcuage ought not to do.

¶Also if the tenaunt which holdeth by eſcuage dye, his heyre beyng at full age, if he hylde by a knyghtes fee, the heyre ſhall paye but an. C. s. for his reliefe, as it is ordeined by ſtatute of magna carta. Cap. 2. but he that holdeth

deth of the king by graund sergeantie & dyeth his heire beyng of full age, shall pay vnto the kyng for his relief the value of his landes or tenementes by yere, beside the charges and reprises which he holdeth of the kig by grād sergeantie. And it is to wete that seriantia in latin is seruicium, and so magna seriantia is magnum seruicium, that is to say a great seruice.

¶ Also those which hold by escuage ought to doe their seruice out of the realme but they that holde by graunde sergeaunt for the most part ought to doe their seruyce wythin the realme.

¶ Also it is sayde that in the Marches of Scotlande some holde of the kyng by cornage that is to say to blowe an horne for to warne the men of the countrey. &c. whan they here that the Scottes or other enemyes wil come or ēter into Englād. &c. which seruīce is graūd sergeaunt. &c. but if any tenaunt holde of anye other lord than of the kyng by suche seruice of cornage, that is not graunde sergeauntie, but it is knightes seruice, & draweth to hym ward mariage, and relief, for none may hold by grād sergeaunte but of the kyng onely.

¶ Also a man may see in the .xi. yere of Henry the fourth that Cokayn than beyng chefe baron of the scheque came into the common place bryngyng with hym a coppe of recorde in these wordes. Talis tenet tantam terrā de domino rege per seriantiam ad inueniendum

Unum hominē ad generam infra quatuor ma-
ria.&c. That is to say, suche a man holdeth so
much land of our souerayne lord the kyng by
sergeauntie to warre within the foure seas, &
he demannded whether he was graunde ser-
geauntie or petie sergeauntie, and Hanke thā
sayde that it was graunde sergeantie, for that
it was seruice to be done by the body of a mā
and yf that he may not fynde a man to do the
seruice for hym he must doe it hymselfe. To
whō the other iustices assented Cokayne thā
sayd, the tenaunt in this case shall pay reyefe
to the value of the lande by yere, to the which
was none aunswer, and note that al they that
holde of the kyng by graunde sergeaunt, hold
of the kyng by knyghtes seruice, and the kyng
of that shall haue warde maryage and reyefe
but the kyng shall not haue of them escuage if
they holde not by escuage.

Petite sergeauntie. Cap. 9.

TEnure by petite sergeauntie is wher a mā
holdeth his lande of our souerayne lorde
the kyng to yelde vnto him yerely a Bowe, or
a sweord, or a dagger, or a knyfe, or a spere, or
a payre of gloues of Mayle, or a payre of
spurres gylte, or an arowe, or diuers arowes
or to yelde such other smal thynges touching
the warre and such seruice is but Socage in
effect for that ỳ the tenāt by his tenure ought
not to go nor to do any thig in his own pper
parson

parlon touchyng the warre. But to yeld and paye yerely certain thynges vnto the kyng as a manne ought to pay a rent. And note that no man may holde lande by graund sergeante nor by petit sergeauntie but of the kyng.

¶ Burgage. cap.10.

TEnure in Burgage is where an auncient Borough is of the which the kyng is lorde and they that haue tenementes within the borough hold of the kyng theyr tenementes that euery tenaunt for his tenement ought to paye to the king a certain rent by yere. &c. And such tenure is but tenure in socage and the same maner is where another lorde spirituall or temporall is lord of suche a borough and the tenauntes of the tenementes in such a borough holde of theyr Lorde to paye eche of them yearely an annuell rent, and it is called tenure in Burgage for that the tenemẽtes within the borough bee holden of the lord of ỹ borroughe by certayn rent. &c. And it is to wete that the auncyent townes called boroughes bee the most auncyent and eldeste townes that bee within England for the townes that be now be cities or countreys in olde tyme were boroughes and called boroughes for of such old townes called boroughes come these Burgeses of the parlyament to the parlyamente whan the kyng hath summoned hys parlyament.

 ¶ Also

Also for the greatter parte of suche boroughes haue diuers customes and vsages which be not had in other townes for some borough hath such custome that if a man haue issue of many sonnes & dieth the yongest sone shall inherite all the tenementes which wer his fathers within the same borough as heire vnto his father by force of the custome the which is called borough English.

Also in some boroughes by the custome the wyfe shal haue for her dower al the tenementes which wer her husbandes.

Also in some borough by the custom a mã may deuise by his testamente by his landes & tenementes which he hath in fee simple within the same borough at the tyme of his death, and by force of suche deuise to whom such deuyses is made after the death of the deuisour, may enter in the tenementes to hym deuysed to haue and to holde to hym after the fourme and effecte of the deuise without any tyuere of seisin therof to be made to him.

Also though a man may not graunte nor geue his tenementes to his wyfe duryng the couerture for that that his wyfe & he bee but one parson in the lawe yet by such custom he may deuise by his testament his tenementes to his wyfe to haue and to holde to her in fee simple or in fee tayle, or for terme of lyfe or of peres for ỹ such deuise taketh none effect but after the death of the deuisor. And if a man at diuers tymes make diuers testamentes and dy-

uers

uers deuises. ꝛc. yet the last deuise & will made by hym shall stande and abyde.

¶ Also by such custome a man may deuyse by his testament that his executours maye alien and sell the tenementes that he hath in fee simple for a certayne summe to distrybute for the soule in this case though the deuysour dye sealed of the tenementes and the tenementes descende vnto his heire yet the executours after the death of the testatour may sel the tenementes so deuised and put out the heyre and therof make a feoffement alyenacion and estate by dede or without dede to the to whom the sale is made vnto.

¶ And so may ye see here a case where a manne maye make a lawful estate and yet he hath nought in the tenementes at the time of the estate made & the cause is for that that the custome and vsage is suche. Quia consuetudo ex certa causa rationabili vsitata priuat communem legem. For a custome vsed vpon a certayn reasonable cause barreth the cõmon law And note wel no custom is to be alowed but such custom as hath bene vsed by title of prescripcion that is to say, frõ time wherof is no mynd. But diuers opiniõs haue bene of tyme out of mind & of title of prescripcõ which is all out in the law, for some men haue sayde that the time of minde shoulde be sayde for time of limitacion in a writ of ryght, that is to save, fro the tyme of kyng Rychard the fyrste after the conquest, as is geuen by the statute of

Wellimynster the fyrst, for that a writ of ryght is the most hyest writ in his nature that may be. And in such a writte a man maye recouer his ryght of the possession of his auncesters of the most auncyēt tyme that any man may bye any writte by the lawe. And in so muche that it is geuen by the sayde estatute that in suche a writte none shalbe harde to aske of the seisō of his auncesters of more longer tyme than of the tyme of kyng Rychard aforesayde, therfore this is proued that continuaunce of possession or other customes & vsages vsed after the same tyme his title of prescripcion, & thys is certayn. And other haue said that wel and truth it is that seisin and continuaunce after the limittacion. &c. is a tytle of prescripcion as is aforesayd and by the cause aforesayde. But they haue sayd that there is also another title of prescripcion that was in the commō lawe before any estatute of limytacion of writtes &c. and that it was where a custome or vsage or other thyng had bene vsed fro tyme wherof mynde of man runneth not to the contrarye, and they haue sayd that this is proued by the pledyng where a man wyll plede a tytle of prescripcion of custome. &c. he shall say that suche custome hath bene vsed fro tyme wherof the memorye of men runneth not to the contrary, that is as much to say, whan suche a matter is pleted that no manne than alyue hath harde one proofe to the contrary, nor hath no knowledge to the contrarye: and in so muche that

such

such tytle of prescription was at the common lawe and not put out by none estatute. Ergo it abideth as it was at the common lawe, and the soner in so muche that the sayd lymittacio of a writte of ryght. &c. is of so long time passed. Ideo quere de hoc, and manye other customes and vsages haue suche auncyent boroughes.

¶ Also euery borough is a towne, but not to the contrary. more shalbe sayd of customes in the tenure of villeynage.

¶ Villeynage. Cap. ii.

TEnure in villeynage is most properly whā a villayn holdeth of his lorde to whom he is villain certayn landes and tenementes after the custome and maner or eis at the will of his lorde and to doe his villayn seruice, as to beare, bryng, and carye out the donge and fylth of the lord vnto the land of his lord ther to lay it, cast it, and spriede it abrode vpon the land, and to do suche other maner of seruice. & some free tenauntes holde theyr tenementes after the custome of certayn manours by such seruice, and their tenure is called tenure in villeynage. & yet they be no villaines, for no lāde holden by villeynage or villeyn landes, or any custome vsyng of the lande shall neuer make free man villeyn. But a villayn may make free land to be villayn land vnto his lord, as yf a villayn purchase lād in fee simple or in fe tail, the lord of the villain may ēter into the lād & put out his villayn & his heyres for euer, and

after the lorde yf he wyll he may let the same lande to the vyllayne to holde in villeynage. Also if a feoffement be made to a certayn parson or parsons in fee to the vse of a vyllayne or yf a vyllayn or any other parsons bee enfeffed to the vse of a villayn, what estate soeuer the vyllayn hath in the vse, in fe tayle for terme of life, or yeres, the lorde of the villayn may enter in all those landes and tenementes lykewyse as yf the vyllain had bene alone seised of the demeine. And that is by the statute of. Anno. 19. H. 7. But yf a free man will take any landes or tenementes of his lorde by such villayn seruice, that is to saye to pay a fyne to his lorde for his mariage or for the maryage of his sonne or his daughter, than shal he pay suche a fyne for the maryage. &c. for that it is the folye of suche a free manne to take in suche fourme landes or tenementes to holde of his lorde by such bondage, yet that maketh not the free man villayn.

¶ Also euery villayn eyther he is vyllayne by prescripcion, that is to say, he and his auncesters haue bene villayns tyme out of mynde or he is villayn by his own confessiō in court of recorde. But if a free man haue dyuers issues, and after confesseth hymself to be villain to another in court of recorde, yet his issues which he hath before the confession be fre, but the issue which he shal haue after the confessiō &c. shalbe villaynes.

¶ Also if a villain purchase landes & alyeneth

neth the same lādes to another before his lord enter than the lord may not enter for it shalbe iudged his own foly that he entred not whē the land was in his villayns handes. And so it is of his other goodes for yf the villayn bye & sel or geue goodes to another before that the lord seaseth the goodes thā the lord may not sease thē but if the lord before any such sale or gift cōmeth within the house of the vyllayne, wher such goodes be & ther openly among the neighbours clayme the same goodes to be his and so seiseth parcel of the same in name of seisin of all the goodes. &c. This is said a good seisin in the law. And the occupacion that the villain hath after such claim ī the goodes shal be taken in the law in the right of the lorde.

¶ But yf the kyng haue any villayne that purchaseth lādes and alyeneth before that the king enter yet the kyng maye enter in the lād in whose handes the land commeth to. Or yf the villayne bye or sell diuers goodes before that the kyng sease the goodes yet the kyng maye sease them in whose handes that euer they be. Quia nullum tempus occurrit regi, for no tyme renneth agaynst the king.

¶ Also yf a manne lette lande to another for terme lyfe, sauyng the reuercion to him and a vyllayne purchaseth of the lessour the reuercion, in this case it semeth that the lord of the vyllayne maye incontinent come to the lande and clayme the same reuercion as lord of the same vyllayne and by thys clayme the

the reuerſion is incontinent in hym for in any other fourme he may not come to the reuercō for he maye not enter vpon the tenaunte for terme of lyfe and yf he ought to abyde tyll after the death of the tenaunt for terme of lyfe, than happely he myght come to late for paraduenture the villayn wyll graunt or alyen it to another in the life of the tenaunt for terme of lyfe. In the ſame maner it is where a villain purchaſeth the auowſon of a churche full of an incombent that the lorde of the villayn maye come to the ſayde churche and clayme the aduowſon. And by this clayme the aduowſon is in hym, for yf he abyde tyll after the death of the incombent and than preſent his clarke to the ſayd churche. Then in the meane tyme the villayn myght alyen the aduowſon. &c. & ſo put out the Lorde from hys preſentacion.

¶ Alſo there is a villayn regardaunt and a villayn in groſſe. Villayne regardaunt is as if a man be ſeiſed of a manour to which a villayn is regardant and he that is ſeaſed of the ſayd manour or they whoſe eſtate he hath in the ſame manour haue been ſeaſed of the ſaid villayn and of hys auncеſters as villayns regardant to the manour fro tyme out of mind. And villayn in groſſe is where a man is ſeiſed of a manour to the whiche a villayne is regardaunt and he graunteth theſame villayn by his dede vnto another than he is villain in groſſe and not regardaunt.

¶ Alſo yf a manne and his auncеſters whoſe

whole heyre he is hath been seased of a villayne and of hys auncesters as villayne in grosse tyme out of mynde suche bere villaynes in grosse. And note well that of suche thynges whiche may not be graunted nor alienedwithout dede or fynde a manne that wil haue such thynges by prescripcio may not otherwyse prescrybe but in hym and hys auncesters whose heyre he is and not by these wordes in hym and in those whose estate he hath for that that he may not haue their estate without dede or wryting the which behoueth to be shewed to the coure yf he wyl haue any aduauntage of this and because ỹ the graunt and the alyenacion of a villain lieth not without dede or other wrytyng. A manne may not prescrybe in a villayn in grosse without shewyng of wrytyng but in hymselfe that claimeth the villayn and in his auncesters whose heir he is. But of those thynges whiche bee regardaunt or appendaunt to a manour or to other landes or tenementes, a man maye prescrybe that he and they whose estate he hath wer seased of the manour or of such landes or tenementes as regardauntes or appendauntes to the manour or to suche landes & tenementes &c. from tyme out of mynde, and the cause is for this that suche a manour landes and tenementes may passe by alyenacio without dede. &c. And it is to witte that nothyng is named regardaunt to a manour but a villayne. But certayne other thynges as aduowsons and

commune

commune of pasture. &c. be named appendātes to the manour or to other landes and tenementes.

¶ Also yf a man in court of recorde knowledge hymself to be villayn that neuer was villayne before, suche one is villayne in grosse.

¶ Also a manne that is villayne is called villayne, and a woman that is villayne is called nyefe, as a manne that is outlawed is called an outlawe, and a woman that is outlawed is called a wayue.

¶ Also yf a villaine take a free woman to wyfe, the yssue betwene them shalbe villayns. But yf a nyefe take a freman to husband, their yssue shalbe free. And that is contrary to the lawe ciuyle, for there he sayth that partus sequatur ventrem.

¶ Also no bastarde may be villayne, but yf that he wyl knowledge hymself to be a villayne in court of recorde, for he is in the lawe. Quasi nullius filius as the sonne of no man, for that he maye be inheritour to no man.

¶ Also euery villayne is able and free to sue all maner of actions agaynst euery parson except agaynst hys Lord to whom he is villayne, and yet in certayne thynges he maye haue agaynst hys Lorde an accion of appelle for the death of hys father or of his other auncesters whose heyre he is. Also a nyefe whiche is rauysshed by her lorde may haue appelle of rape agaynst hym.

¶ Also

Also yf a villayne bee made executour to another, and the lorde of the villayn was indetted to the testatour in a certayne summe of money ẏwhich is not payd, in this case the villayne as executour to the testatour shall haue an accion of dette agaynst hys lorde because he shall not recouer the Det to his proper vse, but to the vse of the testatour.

Also the Lorde may not take out of the possession of suche a villayne that is executour of the deades goodes, and yf he doe the villayne as executour shall haue an accion of trespas agaynst his lorde for thesame goodes so taken and recouer damages to the vse of the testatour. But in all these cases it behoueth the lord which is defẽdant in such accions to make protestacion that the plaintyf is his villayne or els the villayn shall be fraunchysed though the matter be founde for the Lord agaynst the villayne as it is sayde.

Also yf a villayne sue an accion of trespas or other accion agaynst hys Lorde in one Shyre, and the Lorde sayeth that he shall not bee aunswered for that he is villayne regardaunte to hys manoure, in an other Shyre, and the playntyf sayth that he is frank and of free estate and no villayne, thys shall bee tryed in the Shyre where the playntyfe hath concepued hys accyon, and not in the Shyre where the manoure is and this is in fauor of libertie as it is adiudged. Mi. 40. E. 3

And

And for this cause was made a statute in the xx. yere of Rychard the seconde, the tenure of which ensueth in such forme.

Also for that wher many villaynes and wyfes as well of great lordes as of other both spirituall or temporall flee and goe into cities and places fraunchysed as the citie of Londō and other lyke places and fayne byuers sutes agaynst theyr lordes because they wold make themselfe to be enfraunchysed it is accorded & assented that the lordes nor none other shal be forbarred of theyr villaynes because of theyr aunswer in the lawe. By force of which statute yf any villayne will sue any maner of action to his owne vse in any cyte where it is harde to trye. &c. agaynst his lorde, hys Lorde may chose to plede that the plaintif is his villayne and to plede another matter in barre: yf they be at issue and the issue bee founde for the lord, than the villayn is villayn as he was before by force of the same statute. But yf the issue be founde for the villayn than is the villayn frank and free for that the lorde toke not for his plee that the villayn was his villayn but toke it by protestacion.

Also the Lorde maye not mayme hys villayn for if he mayme his villain he shal of that be endited at the kynges suite. And yf he bee of that attaynt he shall for that make grieuous fyne and raunsome to the king. But it semeth that the villain shal not haue by the

lawe

lawe any appele of mayme agaynſt his lord, for in appeale of mayme a man ſhall not recouer but hys damages. And if the vyllayn in that caſe recouer damages agaynſt hys lord, and hath therof execucion the lord may take that that the vyllayn hath in execucion from the vyllayne, and ſo the recouerye ſtandeth voyde.

¶ Alſo if the vyllayn be demandant in an accion royall or playntife in accion perſonel agaynſt hys lord if the lord will pleade in dyſabilitie of hys perſon, he may not make plain defence, but he ſhal defend but the wrong and the force and demaund iudgement if he ſhall be aunſwered and ſhew hys matter by and by how he is vyllayn and demaunde iudgement if he ſhalbe aunſwerde.

¶ Alſo. vi. maner of menne there be agaynſt whom if they ſue actions &c. iudgement may be aſked if they ſhall bee aunſwered. One is where the vyllayn ſueth an accion &c. agaynſt hys lord as in caſe aforeſayde. The ſeconde is where a manne outlawed vpon an accion of Dette or treſpas or vpon any other accyon or indytement, the tenant or the defendant may ſhew all the matter of the record and the outlary and demaund iudgement if he ſhalbe aũſwered becauſe that he is out of the lawe to ſue any accion during the time that he is outlawed. The thyrde is where an aliene doone out of the alegeaunce of our ſouerayn lord the kyng, if ſuch alyene ſue anye accion royall or

parsonal, the tenant or defendant may say that he was borne out of the kinges allegeance & aske iudgement if he shal be aunswered. The fourth is, where a man by iudgement geue against him vpon a writte of premunire facias &c. is oute of the kynges proteccion if he sue any accio & the tenaunt or defendant shewe all the record against hym he may aske iugement if he shalbe aunswered for the law & the kinges writtes been the thynges by which a man is protect & holpen and so durynge the tyme that a man in such case is out of the kynges protec cion, he is out of helpe & protect by the kynges lawe or by the kynges writ.

¶ The fyfth is where a manne is entred and professed into religion, if such a parson sue an accion the tenant or defendant may shewe that such one is entred into religio in such a place into the order of sayne Bennet, and is there a monke professed or in the order of freres minours or preachers and is there a frere professed, & so of other orders of religion &c. & aske iudgement if he shalbe aunswered, and the cause is for thys that when a man entreth into religio & is professed he is dead in the law. And hys sonne or next colyn incontinent shall inherite him as wel as though he wer dead in dede, & when he entreth into religion, he may make hys testamēt & hys executours, and they may haue an accion of dette due to hym before hys entre into religion or any other accion that executours may haue if he wer dead

in dede;

in dede. And if he make none executours whā he entreth into religiō, than the ordinary may commyt the admynystracion of hys goodes to other as if he wer dead in dede. The fyrth is where a man is accursed by the law of holy church, & he lueth an accion royal or parsonal, the tenant or defēdant may plede that he that lueth hys accus. d, & of thys it behoueth hym to shew the bysshops letters vnder hys seale, witnessyng the accursyng & alse iudgement if he shalbe aunswered &c. but in thys case if the demaūdant or pleyntif cannot denye it, ꝑ writ shal not abate, but the iudgement shalbe that the tenant or defendāt shal go quite without daye for thys, that whan the demaundant or playntif hath purchased hys letters of absolucion and shewed them to the courte, he maye haue a resommons or a reattachemente vpon hys originall after hys nature of hys wrytte &c. But in the other cases the wryt shal abate. et cetera. If the matter shewed maye not bee gaynsayd.

¶ Also if a vilain be made a seculer preest, yet his lord may cease hi as hys vilain & cease his goodes &c. But it semeth ꝯ if the villain ēntre into religiō & is ꝓfessed &c. that the lorde may not take him nor seise hi for ꝯ he is ded in the law. And no more thā if a free mā may take a wife to hys wife ꝯ lord may not take ne seise ꝯ wyfe of the husband. But hys remedy is to haue an accion agaynste the housebande, for that he tooke hys niece to wyfe without his

And so may the lorde haue an accion agaynst the souerayn of the house that taketh and admitteth hys villain to be professed in the same house without lycence and will of hys lorde &c. and shal recouer hys damages to the value of the villayn, for he that is professed monke &c. shalbe a monke, and as a monke shalbe taken for terme of hys lyfe naturall, except he be derayned by the lawe of holy church, & he is holden by hys religion to kepe his clouster, and if the lord may take hym out of his house than he should not liue as a dead parson nor after hys religion which shoulde be in continent &c. For if there be wardeyn in chiualrye of body and of land of a chyld within age, & the chyld whan he cometh to the age of xiiii. yeres, entre into religion and is professed, the wardeyn hath none other remedye as to the warde of the body, but a writte of rauyshment of warde agaynst the souerayne of the house. And if any beyng of full age that is cosyn and heyre vnto the chylde entre into the land, the warden hath no remedy as to the ward of the lande, because that the entre of the heyre of the chyld is lawfull in such case.

¶ Also in many dyuers cases the lord may make manumyssion and infraunchisyng to hys villayn. Manumission is properly whan the lord maketh hys dede to hys villayn to enfrāchise hym by thys word Manumittere, which is as muche to say, as extra manum. Et extra potestatem alterius ponere, as to put him out of the

of the handes and the power of another. And for thys that by such a dede the villain is put out of the hand & power of hys lord, it is called manumission. And so euerye maner of enfraunchesing made to a villayn, may be sayde a manumissyon. Also if the lorde make to hys villayn an obligacyon of a certayn summe of money or graunt vnto hym by hys dede or an annuitie, or let hym by hys dede, landes or tenementes for terme of peres, the villayn is enfraunchised. Also if the lord make a feoffement to hys villayn of ampe landes or tenementes by dede or without dede in fee symple, or fee tayle, or for terme of peres, and deliuereth vnto hym the seysyn, thys is an infraunchisynge, but if the lorde make to hym a lease of landes or tenementes, to hold at the will of the lord by dede or without dede thys is no enfraunchisyng, for that he hath no maner of certayn nor suertie of hys estate, but ỹ the lord may put hym out whan he will. Also if a lord sue agaynst hys villayn, a Precipe q reddat, if he recouer or by nonsuite after apperaunce, thys is a manumyssion, for this that he may lawfully enter into the land without such suite. In thesame maner it is if he sue agaynst hys villayn an accion of Dette, or of accoumpte, or of couenaunt, or of trespas, or suche other, thys is an enfraunchisyng &c. for thys that he may enprison hys villayn, & take his goodes without such suite. But if the lord sue hys villayn by appele of felonye, thys is

none enfraunchiſyng to the villayn though ꝯ matter of the apele is found agaynſt the lord becauſe that the lord may not haue the villain hanged without ſuch ſuite. But if the villain wer not endyted of the ſame felony before the appele ſued agaynſt hym & is acquyted of the felony, ſo that he recouer damages againſt the lord for the falſe appele. And in thys caſe the villayn is enfranchiſed becauſe of the iudgement of damage that was geuen to hym agaynſt hys lord. And more caſes and matters there be by ꝯ which a villayn may be enfranchiſed agaynſt hys lord. Sed de illis quere. Alſo yf a lord of a manour wyll preſcrybe that yt hath been accuſtomed within hys manour tyme out of mynd that euery tenãt within the ſame manour that marieth hys daughter to any mã without iycẽce of the lord of ꝯ manour ſhal make fyne to the lord for the tyme beyng thys preſcryppcion is voyde, for none ought to make ſuch fynes but onely villaynes for euery free man may freely mary hys daughter to whõ it pleaſeth hym & hys daughter. And becauſe that thys preſcripcion is agaynſt reaſõ ſuch preſcryppcion is voyd. But in the ſhyre of Kent of landes holdẽ in Gauelkynd where by the cuſtome and tyme of mynde the chyldren males ought equally to enherite thys cuſtom is alowable, for thys that it is with ſome reaſon becauſe that euery ſõne is as great a gẽtleman as the elder ſonne, & becauſe of that more great honour & valure ſhall growe than

if he

if he hadde nothyng by hys aunceſtres where paraduenture he myght not ſo growe. &c.

¶Alſo where by cuſtome called borough Engliſh in ſome borough the yonger ſõne ſhal inherite al the tenementes &c. Thys cuſtome alſo ſtandeth with reaſõ becauſe that the põger ſonne if he lacke father & mother becauſe of hys young age may leaſte of all hys brethern helpe hymſelf &c. But if a man will preſcribe that if any catel wer vpon the demeſnes of hys manour there doyng damage, that ꝯ lord of the manour for the time beyng hath vſed hi to dyſtrayn them & the diſtreſſe to retayn tyll fyne wer made to hym for the damages at his will, thys preſcripcion is voyd, becauſe it is agaynſt reaſõ that if wrong be done to a mã, that he therof ſhoulde be hys owne iudge, for by ſuch way if he had damages but to the value of an halfpenye he myght aſſeſſe and haue therof an hundred pound which ſhould be agaynſt all reaſon, and ſo ſuche preſcrypcion or any other preſcripcion vſed if it be agaynſt al reaſõ this ought not nor wil not be alowed before iudges. Quia malus vſus abolendus eſt.

¶Rentes. Cap. 12.

THree maner of Rentes there be, that is to ſaye, Rent ſeruyce, Rent charge, and Rent ſecke. Rent ſeruice is where a manne holdeth hys land of hys lord by fealte & certayn rent or by other ſeruice and certayn rent.

¶Or by homage fealte and certayne Rent.

And if rent seruice at any day that it ought to be payd, be behynd, the lord maye dystrayn for that of common ryght. And if a man now wil geue landes or tenementes to another in the tayle, yeldyng to hym certayn rent by yere he of common ryght may distrayn for the rent behynd, though that such gyft was made without a dede because that such rent is rent seruice, but in such case where a man vpon such a gyft or lease will receiue to hym rent seruice It behoueth that the reuercion of the landes and tenemētes be in the donour or in the lessour, for if a man will make a feoffment in fee, or wyll geue landes in the tayle, the remaynder ouer in fee simple without a dede reseruyng to hym certayn rent, suche reuercion is voyd because ỹ no reuercion is in the donour and such a tenaunt holdeth hys land immediatly of the lord of whom hys donour helde. And thys is by force of the estatute of westm 3 Cap. 1. Quia emptores terrarum For before the same estatute if one had a feoffment in fee symple by dede or without dede, yeldyng to hym & to hys heyres certayne rent, thys was rent seruice, and for thys he myght dystrayn of common ryght. And if he made no reuercio of any rent nor of any seruice, yet the feoffee held of the feoffour by suche seruices as the feoffour held euer of his lord next aboue. But if a man by dede indented at a day, make such a gyft in the tayle, the remaynder ouer in fee &c. or feoffment in fee, and by the same indenture

ture reserueth to hym and to hys heyres a cer
tayn rent, and that if the rent be behynd that
it shalbe lefull to hym and to hys heyres to dy-
strayn &c. such rent is rēt charge, because such
landes and tenementes be charged of such di
stres by force of the wrytyng only and not of
cōmon ryght. And if such a man in such a deve
endented, reserue to hym and to hys heyres
certayn rent without any such clause sette or
put in the deve that he may distrayne &c, that
such rent is rent secke, because that he cannot
dystrayn to haue the rent if it be denyed by ꝯ
same dystres, & if he was neuer seysed in thys
case of the rent he is without remedy as shal-
be sayd hereafter. Also if a man seised of cer-
tayn lande graunte by hys deve Poll, or by
endēture a yerely rent issuyng out of the same
land to another in fee symple or in fee tayle,
or for terme of life &c. with clause of dystresse.
&c. then that is rent charge, and if it be with-
out clause of distresse, then it is rent secke, and
note well that rent secke Idem est quod red-
ditus siccus, and for that, that no dystresse is
incident to it. Also if a man grant by his deve
to another and the rent is behynd, the grante
may choose if he will sue a wrytte of annuite
of it agaynst the grauntour or dystrayn for the
rent behynd and the dystresse to withold tyll
he be of that payde. But he may not dooe and
haue both together, for if he take a writte of
annuite than the lord is discharged. And if he
sue not a wrytte of ānuite but dystrain for the
arrera-

areages & the tenant sueth a replegiare &c. & the graunte auoweth the takyng of the dystresse in the land &c. in court of record than is the land charged, and the parson of the graun tour discharged of an accion of annuite.

¶ Also yf a man will that another shall haue rent charge yssuing oute of the landes but he will not that hys parson shalbe charged in a maner by a writte of annuite, than he maye haue such a clause in the end of his dede. Pro uiso semper q̄ presens scriptum nec aliquod in eo specificatū non aliqualiter se extēdat ad onerandum personam meam per breue de annuali redditu. Sed tantummodo ad onorandū terram & tenementa p̄dicta de annuali redditu predicto. And than is the land charged & the parson of the grauntour dyscharged.

¶ Also yf a man make such a dede in such maner that yf A. of B. be not yerely payd at the feast of Chrystmas for terme of hys lyfe of .xx. shyllynges of lawful money, that than it shalbe lefull to the sayd A. of B to distrayne for it in the manour of F. &c. thys is a good Rente charge, because that the manour is charged of the rent by way of dystresse. And yet the parō hymself that made such a dede is discharged in thys case of an actyō of annuite because that he graunted not by hys dede anye annuite to the sayd A. of B. but graunted onely that he may dystrayn for hys annuite.

¶ Also yf a man haue a rent charge to hym and to hys heyres yssuyng out of certayn land,

if hys

if he purchace any parcell of the land to hym and to hys heyres, all the rentes is extincte and adnulled because the rent charge may not in such maner bee appoyntyoned, but yf a man that hath rent seruyce purchase parcell of the lande whereof the rent is thys shall not extyncte all, but for the poyntyon for the rent seruice in such case may be appoyntyoned and shal be appoyntyoned after the value of the lande, but yf a tenaunt holde hys lande by seruyce to yelde to hys lorde yereiye at suche a feast, an horse or an hauke, or suche thyng semblable. yf in suche case the Lorde purchase parcell of the lande, the seruice is gone, because that suche seruyce may not be seuered nor appoyntioned, but yf a manne holde hys land of another by homage fealte and escuage, and by certayn rent yf the lorde purchase parcell of the land & cetera. In that the rent shalbe appoyntyoned as is aforesaid, but yet in this case the homage an fealtee abideth whole to the lord, for the lord shall haue the homage & fealte of hys tenant for the remenant of landes & tenementes holden of hym as he had before. &c. for thys that suche seruices be no auncient seruyces and maye not be appoyntyoned. But the escuage may and shalbe appoyntyoned after the quantitie and rate of the land.

¶ Also yf a man haue a rent charge, and hys father purchaseth parcell of the tenementes charged in fee and dyeth, & that parcell discendeth to hys sone that hath the rēt charge now thys

thys rent charge shalbe appoꝛcioned after the value of the land, as is afoꝛesayd of rent seruice because that such a poꝛcyon of the lande purchased by the father, commeth not to the sonne by hys own dede, but by dyscente and course of the lawe.

¶ Also yf there be loꝛd and tenaunt, and the tenaunt holdeth of hys loꝛd by fealte and certayn rent, and the loꝛd graunteth the rent by hys dede to another &c. reseruyng to hym the fealte and the tenant attoꝛneth to the graunt of the rent, now such rent is rent secke to the graunte foꝛ thys that the tenementes be not holden of that graunte of the rent, but be holden of the loꝛde that receyueth to hym fealtee. And in thesame maner it is, where a mã holdeth hys land by homage fealte, & certayn rent, if the loꝛd grant the rent, sauyng to him the homage such rent after such graunt is nꝛt secke but where landes oꝛ tenementes been holden by homage fealte, and certayn rent, if the loꝛd will graunt the homage of hys land by hys dede to another sauyng to hym the remenant of the seruices and the tenant attoꝛneth to hym after the fourme of the graunt, now in thys case the tenant holdeth his land of the graunt, and the loꝛd that graunteth the homage shall not haue but the rent as rent secke, and shall neuer dystrayn foꝛ the rent foꝛ thys that neyther homage, noꝛ fealtie, noꝛ escuage may be sayd seck, foꝛ he ỹ hath oꝛ ought to haue of hys tenaunt Homage, oꝛ fealte and

escuage,

escuage may of common ryght dystrayn for it if it be behynd for homage fealte and escuage been, seruices by which landes and tenemtes be holden and been such that in manet maye be taken but as seruices. But otherwyse is of rent that was once rēt seruice for thys that whan it is seuered &c. by the graunte of the lord fro the other seruices, it may not be sayd rent seruice for thys that hath not to it fealte which is incident to euery maner of rent seruice, and for thys it is sayd rent secke.

¶ Also if a man let land to another for terme of lyfe reseruyng to hym certayne rent, if he graunt the rent to another sauyng to hym the reuercion of the land so letten by his dede. &c. suche rent is but rent secke, for thys that the graunte hath nothyng in the reuercion of the land. But if he graunt the reuercion of ꝯ land to another for terme of lyfe and the tenant attourneth &c. then hath the graunte the rent as rent seruice because he hath the reuercion for terme of lyfe. And so it is to be vnderstād that if a manne geue landes or tenementes in the tayle reseruing to hym and to hys heyres certayn rent or let land for terme of lyfe reseruing certayn rent if he graunt the reuercion to another, and the tenaunt attorneth all the rent and seruice passeth by the woorde of the graunt of reuercion for thys that all the rent and seruice in such case be incidentes to the reuercion and passe by the graunt of reuercion. But though he graunt the rent to another

the

the reuerchon palleth not by ſuche graunte et cetera. And ſo note well the diuerſitie. And it is holde, Paſche duodecimo E.quarti. But it is adiudged. Anno.xxvi. libro Aſſarum, where as the ſeruices of the tenaunt in tayle were graunted that that was a good graunt yet notwithſtanding the reuercion remaines.

Alſo yf there be Lorde meſne and tenaunte, and the tenaunt holdeth of the meſne by the rent of.v.ſhillynges, and the meſne holdeth ouer by twelue pence, yf the lord aboue purchaſe the tenaunty in fee, then the ſeruice of the menaltie is extynct for thys that whan the lord aboue hath the tenaunty, he holdeth of the lorde next aboue hym. And if he ought to holde it of hym that was meſne, than he ſhoulde holde one ſelfe tenaunte immediatlye of diuers Lordes whiche ſhoulde be inconuenyent, and the lawe wyll ſooner ſuffer a myſchiefe for that, than an inconuenyence, and for thys the ſeygniorye of the menaltie is extynct. But in ſo muche that the tenaunt held of the meſne by v.s. & the meſne held but by.xii.d. ſo that he had more auantage by.iii.s than he payd to hys lord, he ſhal haue the ſayd fowre ſhyllynges as a rent ſeche pereiy of the lord that purchaſed the tenaunty.

Alſo yf a manne that hath rent ſeche is ones ſeiſed of any parcell of the rent, and after yf the tenaunt wyll not pay the rent that is behynde, thys is hys remedye. It behoueth hym to goe by hymſelfe, or by another, to the

to the landes and tenementes whereof the rente is yssuynge. and there to demaunde the arrerages of the Rente. And yf the tenaunt denye to paye it, thys denyinge is a dysseisyn of the rent. Also yf the tenaunt at the tyme be not ready to paye it, thys is a denying and a dysseisyn. Also yf the tenaunte, nor none other be dwellynge vpon the landes or tenementes whan he asketh the arrerages et cetera. thys is a denying in lawe, and a dysseysyn in dede, and of suche dysseisyns he maye haue an assyse of nouel dysseisyn agaynst the tenaunt, and recouer the seysyn of the Rent, and the arrerages and hys damages and costes of hys writte & of hys ple. &c. And if after such recouere the rent be another time denyed him, thā he shal haue a redisseisin & recouer double damages. And it is to be had in mind, that thys name assyse is Equiuocū. For some tyme it is taken for a iure, for in the begynning of the record of assyse of nouel disseisin, the record shal begin thus (Assisa veñ recogñ) which is to saye ꝑ iuratores veñ recogñ, and the cause is for thys that by the wrytte of assyse is commaunded to the shyrif ꝙ faciat. xii. liberos & legales homines de vicineto &c. videre tenementum illud & nomina eorū inbreuiari. & ꝙ som̄ eos ꝑ bonos sum̄ ꝙ sint coram iusticiariis et cetera. parati inde facere recognitionē &c. And for thys that by force of suche an originall writte a panell by force of the same wrytte, oughte to bee retourned &c. it is

sayd

layd in the begynnyng of the record in assyse, Assisa ven recogn &c. Also in a wryte of right it is commonly layd that the tenant may putte hym in good and in the greate assyse &c. Also there is a wrytte in the Registre called De magna assysa eligenda, so is thys a good prole that thys name assyse sometime is put for the Jewry, and sometyme it is taken for all the wrytte of assyse, & after that entent it is most properly and most commonly taken as assyse of nouel disseisin, is taken for al the wrytte of assyse of nouel dysseisin. In thesame maner assyse of cõmon pasture, is taken for al the wrytte of assyse of cõmonpasture and assyse of mordauncestre and assyse of dartayn presentment. &c. But it semeth that the cause is why suche writtes at the begynnyng were called assyses, for thys that by euery suche wryt it is cõmaunded to the shryfe that he sommon .xii. &c. which is as much to say that he ought to sõmon a iewry &c. and sometyme assyse is taken for an ordinaunce for to set certayn thynges in a certayn rule and dyspolicion, as an ordinaunce that is entred in the auncient estatutes is called Assysa panis & seruicie. Also if there be lord and tenaunt, and the lord grauteth the rent of hys tenaunt by dede to another sauyng to hym the other seruice, and the tenaunt attourneth, thys is a rent seche as it is afore sayd. But if the rent be denyed hym at the next day of payment, he hath no remedy for this that he had not therof any possession.

But

But yf the tenaunt whan he attorneth to the graunt or after wyll geue a peny or an halfe peny to the graunt in the name of seisin of rēt than yf after at the next day of payment the rent be denyed hym he shall haue assyse of nouel disseisin and so it is yf a man grant by his dede a yerely rent issuyng out of hys lande to another. &c. If the graunt out than after paye to the graunte. i. d. or an half peny in the name of seysyn of the rent than after the fyrst daye of payment the rent be denyed, the grant may haue assyse or els not. Also of rent Secke a mā may haue assyse of mortdauncester or a wryt of ayle or cosynage and all other maner of actions reals the case lyeth as he may haue of any other rent.

¶ Also there be two causes of disseisin of rēt scrupce that is to say rescous repleuyn and ēclosure rescous is whan the lord dystrayneth in the land holden of hym for his rent behind yf the dystresse be reserued fro hym or the lord come vpon the lande and woulde dystrayne & the tenaunt or another manne wyll not suffer hym. &c. Repleuyn is whan the lorde hath distrayned, and repleuyn is made of the distres by wryt or by playnt. &c. Enclosure is yf the landes and tenementes bee so enclosed that the lorde may not come within the lande and tenementes for to dystrayn and the cause why suche thynges so done be disseisins made to the lorde is for this by suche thynges the lord is disturbed of the meane by which he ought to

haue come to his rent. And foure cauſes be of diſſeiſin of rent charge that is to ſaye reſcous repleuin encloſure and denyer for denying is a diſſeiſin of rent charge as it is aforeſayde of rent ſecke & two cauſes be of diſſeyſin of rent ſecke that is to ſay encloſure and denyer and yet it ſemeth that ther is another cauſe of diſſeiſin of al the thre rentes aforeſayde that is whan the lord is goyng to the land holden of hym for to dyſtrayne for the rent being behind and the tenant hearyng this encountreth hym and forſtalleth hym the way with force, and armes and manaſeth hym in ſuche forme that he dare not come to the land for to dyſtrayne for his rent behynde. &c. for doute of death or bodily hurt this is a diſſeiſyn for this that the lord is diſturbed of the mean wherby he ought to come to his rent and ſo it is pꝛ by ſuch forſtalling and manalling he that hath rẽt charge or rent ſeck is forſtalled or dare not come to the land to aſke the rent behynde.

The thyrd Booke.

Parceners. Cap. i.

Parceners bee in two maners that is to ſay parceners after the courſe of the cõmon law & parceners after the cuſtome parceners after the courſe of the cõmõ law be wher a man or a woman be ſeaſed of certayn landes or tenementes in fe ſimple or fe taile & hath none iſſue but doughters & dieth

and

and the tenem̃tz discende to the doughters & the doughters enter into the lãdes & tenem̃ts so to thẽ discended than they be called parceners & be but one heyre to theyr ancester and they be called ꝑceners for this ẏ by the wryt that is called Breue de participatione facienda the law wyl constrain thẽ that participaciõ shalbe made among thẽ & yf ther be .ii. doughters to whom the land discendeth then they be called two parceners & if thei be .iii. doughters they be called thre parceners, and foure doughters foure parceners and so foorth and yf a man seased of landes in fe simple or in fe tayl and dye without issue of his body, and the tenementes discende to his systers they be parceners as is aforesayde. In thesame maner it is wher he hath no sisters but the land discendeth to his auntes they be parceners, but yf a manne haue but one doughter she may not be sayde parcener but doughter and heyre. And it is to wete that particion betwene ꝑceners maye be made in dyuers maners, one is whã they agree to make particion and make particion of the tenementes as yf there be twoo parceners to deuide betwen them the tenem̃ts in two partes euery part by hymself in seueraltie of euen value and if there be thre parceners to deuide the tenementes in thre partes in seueralte. Another ꝑticion there is to chose by agrement betwene thẽ & certayne of theyr frẽdes to make the ꝑticion betwene thẽ of the landes & tenementes in the forme aforesayd.

And in ſuch caſes after ſuche partition the elder doughter ſhall chooſe fyrſt one of the ptes ſo deuyded which ſhe wyll haue for her part. And than the ſeconde doughter after her another part.&c.yf it ſo be that there be many ſyſters.&c. If it be not ỳ they ne be otherwyſe agreed betwene them for it may be agreed betwene them that one of them ſhall haue ſuche tenementes and another ſuch tenementes.&c without any ſuche fyrſt election and the part that the elder ſyſter hath is called in latin Enitia pars, but yf the parceners agre that the elder ſyſter ſhall make partition of the tenementes in the fourme aforeſayd, and yf ſhe do, than it is ſayde that the elder ſyſter ſhal chooſe the laſt part after eche of her other ſyſters Another partition and a lottyng there is.as yf there be fowre parceners and after ſuch partition made of the landes euery parte of the lande is by it ſelfe wrytten in a little ſcrowe and it is couered all in wexe in a maner of a lyttle ball ſo that no man may ſee the ſcrowe, than is the foure balles of wexe put in a Bonet to kepe in the handes of an indyfferẽt mã, & than the elder doughter fyrſte ſhall put her hand in the Bonet which ſhall take a balle of wexe and the ſcrow within the ſame ball for her purpartie, and than the ſeconde ſyſter ſhal put her hande in the Bonet and ſhall take another, and ſo then the thyrd ſyſter the thyrde ball.&c.& in thys caſe it behoueth eche of thẽ to holde them to theyr chaunce and alotment.

Alſo

¶ Also another particion ther is as if ther be fowre parceners and they wyll not agree that particion shalbe made betwene thē, than one of them may haue a writ de particione facienda agaynst the other three systers, or two may haue a writ of participacione facienda, agaynst the other or the three against the foure at the election and whan iudgement shall bee geuen vpon suche a writte, the iudgement shal be such the particion shalbe made betwene the partyes of the sherife in his proper parson go to the landes and tenementes. &c. and that he by ỹ othe of. xii true mē of hys bayly wyke. &c. shall make particion betwene the partyes the one partye of the same landes shal be assygned to the playntyf or to one of the playntyfes, & another parte to an another. &c. not makig mēcion in the iudgement of the eldest sister more than of the yongest, and of the particion that he hath, thys done he shall make notyce to the Justyces. &c. vnder his seale and the seales of the xii &c. and so in this case may yon see that the elder sister shall not haue the fyrst election. &c. but the sheryfe shal assygne the part that she shall haue. &c. and it may be that the sheryfe wyll assygne fyrst a part to the yonger syster, and the last part to the elder. And note well that particion by agrement betwene parceners maye by the lawe bee made amonge them as well by woorde without deade as by dede.

¶ Also if two meses dyscende to two par-

ceners and the one mese is worth by yere .xx. s. and that other but .x. s. by yere, in thys case partition may be made betwene them in such forme that the one parcener shal haue the one mese and the other parcener shall haue the other mese, and he that shall haue the mese of xx. s. and hys heyres shall paye a yerely rent, of .v. s. ylluing out of the same mese to another parcener and to his heyre for euer, because ỹ euery of them shall haue euen in value, & such partition made is good ynough, and the same parcener that shall haue the rent of .v. s. hys heyres may dystrayne for the rent of common ryght in the same mese of the value of .xx. s. yf the rent of .v. s. bee behynde at any tyme in whose handes so euer the same mese cometh though there was neuer writyng made of it betwene them, in the same maner it is of partition of all maner of landes and tenementes &c. where such rent is reserued to one or to dyuers parceners vpon such partition &c. but suche rent is not rent seruyce, but rẽt charge, of common ryght had and reserued for egalne of the partition. And note well that none be called parceners by the common lawe but women or the heyres of women, and which come by landes and tenementes by dyscent, for yf systers purchase landes or tenementes of thys they been called Joyntenauntes and not parceners. Also yf twoo parceners of lande in fee symple make partition betwene them. &c. and in the part of that one

valueth

valueth muche more than the parte of the other, yf they were at the tyme of partition of full age, that is to saye of xxi. yeare, than they alwaye shall abyde and neuer be defeted, but yf tenementes whereof bee made partycyons bee to them in fee tayle, and the parte that one hath is muche better in yerely value than the part of the other. Howbeit that they bee excluded duryng theyr lyues to defete the partition yet yf the parcener yͭ hath the lesse part in value hath yssue and dyeth, the yssue maye dysagree to the partition and enter and occupy in common that other part that is alotted to her aunt and so the aunt may enter and occupy in common the other part alotted to her sister as no partition therof had be made. &c.

¶ Also yf two parceners of tenementes in fee take husbandes and they and theyr housebandes make partition betwene them yf the part of the one be lesse in yerely value thē the part of that other during the lyues of the husbandes the partition shalbe in his force and strength yet after the death of the husbande the wyfe yͭ hath the lesse part. &c. the same wife or woman may enter in her sisters part as it is aforesaid and defete the partition, but if the partition so made betwene thē wer such that at tyme of lotment wer egal of yerely value than it may not after be defeted in such cases.

¶ Also if ther be. ii. pceners and the yonger of them be within the age of. xxi. yere and partycyon is made betwene them, so that the

part that is allotted to the younger is lesse in value then the part of that other. In this case ỹ yonger duryng the time of her nonage and also whan she commeth to full age of .xxi. yeare may enter in the porcion of her sister alotted, &c. and defete the partition but suche a parcener ought to take hede whan she commeth to full age that she ne take to her owne vse all the profytes of that tenemẽtes to her alotted, for that she agreeth to the petition of suche age, in which case the partition shal stande and abyde in his force and strength &c. but paraũture the profytes of the half she maie take, leuyng the profytes of the other halfe to her syster. &c. yet it is to wytte that whan it is sayd males and females be of full age, that shal be vnderstanded of the age of .xx. yere for yf anye feoffement or graunt relese confyrmacion obligacion or any other wryting before any such age be made by any of them. &c. or that any within such age be baptyst or receyuer with any mã &c. all for nought and may be auoyded. Also a man before suche age shal not be sworne in no iury nor no inquisition. Also yf tenemẽtes be geuen to a manne in the tayle which hath as muche lande in fee symple and hath issue two doughters and dieth, and the doughters make partition betwene them, so that the landes in fee symple be alotted to the younger doughter in allowaunce of the tenementes tayled, alotted to the elder doughter, if after such partycion the younger doughter aieneth the land

in fee symple to another in fee, and hath yssue, a sonne or a doughter and dyeth the yssue may enter in the tenementes tayled and them to holde in propartye with theyr Aunt and thys is for two causes, one is for that, that the yssue maye haue no remedye of the lande aiyened by hys mother for that the lande was to her in fee symple, and in so muche that he is of the heyres in the tayle, and hath nothyng recompensed of that that to hym belongeth of the tenementes tailed, and namely whan such partition maketh no discontinuaunce of the tayle as shall be sayde hereafter in the chapiter of discontinuaunce. But the contrarye is holden. M.r.H.vi. that is to saye that they maye not enter vpon the parcener that hath hys lande tayled, but is set to hys formedon. Another cause is for that, that it shal bee erected the foly of the elder syster, that she woulde agree to the partition where she myght haue had halfe the land in fee symple and halfe of tenementes in the tayl for purparte and so to be sure without damage. &c. Also yf a manne seased in a plough lande by iuste tayle and deceaseth an infaunte wythin age of another ploughe lande and hath yssue twoo doughters, and dyeth seased of bothe those ploughe landes, the enfaunt than being with in age, and the doughters enter and make partition that the one ploughe lande, is lotted to the purparte of the one as parcase to the younger syster in allowaunce of that o-

ther

ther ploughe lande that alotteth to the pur-
parte of that other, so that after the infaunte
entreth in the plough lande of the which he
was dissesed vpon the possession of the par-
cener that hath thesame plough land, than the
same pcener may ẽter into that other plough
land that the syster hath and holdeth in par-
cenary with her, but yf the ponger syster alien
thesame plough lande to another in fee symp-
ple before the enter of the infaunt, and after
the chylde entreth vpon the possession of the
alyen then she maye not enter in the other
plough land, for this that by her alienacion she
hath vterly dismissed her self to haue any part
of the tenementes as parcener, but yf the pon-
ger sister before the enter of the infaunt make
therof a lease for terme of yeres or for terme of
lyfe or in fee tayle saupng the reuerciõ to her
and after the chylde entreth, there paraduen-
ture it is otherwyse, for this that she dismissed
not her self of all that, that was in her, but
hath reserued to her the reuercion and the fee
symple. ꝛc.

¶ Also yf there be thre or foure parceners
that make partition betwene them, yf the part
of the one parcener be defeted by such lawful
entre she may ẽter and occupy thesame other
landes of all the other parceners, and compel
them to make newe partition of the other
landes betwene them. ꝛc.

¶ Also yf there be two parceners, and the
one taketh an husbande, and the husbande and
the

the wyfe haue yſſue betwene them, and the wife dieth, & the husband holdeth hym in the halfas tenãt by the curteſy. In this caſe the parcener that ſurviueth & the tenant by the curteſy may wel make partition betwene them. &c. And yf the tenant by curteſy wyll not agree to make partition, than the parcener that ſurviueth may haue a wryt de participacione faciendo. &c. and compell hym to make partition. But yf the tenaunt by the curteſy wyll haue partitiõ betwene them, and the parcener that ſurvyueth wyll not haue it then the tenaunt by the curteſy ſhal haue no remedy for to haue partition for he may not haue a wryt de participacione faciendo, for this that he is not parcener, for ſuch a wryt lyeth for parceners all onely. And ſo may ye ſee that the wryt de participatione faciendo lyeth agaynſt tenauntes by the curteſye, and yet hymſelf may not haue ſuch a wryt.

¶ Parceners by the cuſtome. Cap. ii.

PArceners by the cuſtome be where a manne ſeaſed in fee tayle of landes or tenementes that be of the tenure called Gauelkynde within the ſhyre of kent, & hath yſſues diuers ſõnes and dyeth, ſuche landes and tenementes ſhal dyſcende to all the ſonnes by the cuſtome, and they eueniye ſhall inheryte and make partycyon betwene them by the cuſtome as females doe. and a wryt de partitiatione faciẽda lyeth in this caſe as betwene females, but

it behoueth in the declaracion to make mencion of the custome. Also suche custome is in other places in England and also such custom is in north wales.

¶ Also there is an other partition that is of another nature, and in another forme than any of the partitions aforesayde, as a manne sealed of certayn landes in fee symple hath issue two doughters, and the elder is maryed, & the father geueth parcell of the same landes to the husbande with his doughter in franke maryage, and dyeth sealed in the remenaunt the whiche remenaunt is of more greater value by yere then be the landes geuen in frank maryage.

¶ In thys case the husbande and the wyfe shall haue nothyng for theyr part of the sayde remenaunt, but yf they wyll put their landes geuē in franke mariage in hotchpot wyth the remenaunt of the lande with her sister, and yf they wyll not doe so, then the yonger syster may occupy the same remenaunt, and take to her the profytes onely, and it semeth that thys worde hotchpot is in Englych a puddyng, for in such a puddyng is not commonly putte one onely thyng, but one thyng with another and for this that it behoueth in suche case to put the landes geuen in frank maryage with the other landes in hotchpot yf the husbande and the wyfe wyll haue any thyng in the other remenāt. &c. This word hotchpot is but a terme of similitude, & is as much to say as to put the

landes

landes geuen in frãk mariage & other lãdes in fee ſimple. &c. together, & this is to ſuch entẽt to accompt the value of al the landes that is to ſay, of the landes geuen in franke maryage & the remenant that was not geuen and than partition ſhalbe made in thys fourme that enſueth. As put caſe that a man ſeaſed of. xxx. acres of lande in fee ſymple euery acre in value. xii. ð. by the yere which hath yſſue. 2. doughters and the one is couert baron, & father geueth. x. acres of the xxx. acres to the huſbãd with his doughter in franke maryage & dyeth ſeaſed of the remenaunt, then the other ſiſter ſhall enter in the remenaunt, that is to ſaye in the. xx. acres and ſhall occupy it to her owne vſe, except the huſbande and the wyfe wyll put theyr. x. acres euen to thẽ in franke maryage wyth the other. xx. acres in hotchpot. that is to ſay together and than whan the value is knowen of euery acre. that is to ſaye, euery acre is yerely worth. xii. ð. then the partycyon ſhalbe made in ſuch forme, that is to ſay, that the huſbande and the wyfe ſhall haue aboue the. x. acres geuen to them in franke maryage v. acres in ſeueralte of the. xx. acres and that other ſyſter ſhall haue the remenaunt, that is xv acres of the. xx. acres for her part ſo that accomptyng the. x. acres that the huſband and the wyfe had in franke mariage, and the other v. acres of the. xx. acres, the huſband & the wife haue as much in yerely value as that other ſiſter hath, & ſo al way vpon ſuch ꝓticiõ lãdes

geuen

geuen in frãk mariage abyde to the doners or to their heyres.&c.after the forme of the gift.&c For if ỹ other parcener should haue nothig of this ỹ is geuẽ in frãk mariage, of this should folow an inconuenience & a thing agaynst reson which the law wyll not suffer.&c.and the cause why the landes geuen in frank mariage shalbe put in hotchpot is this, that whẽ a man geueth landes and tenementes in frank mariage with his doughter or with his other cosyn, it is to vnderstande by the law that such gyft made by such woordes frank maryage is an auncyment of his doughter or of hys cosyn, and namely whẽ the donour & his heires shall not haue any rent nor seruice of him except fealtie vnto the fourth degree be passed. &c.and for such cause the law is that she shall haue nothing of the other landes and tenementes discended to the other parceners.&c. but if she wil put the tenementes geuẽ in frãk mariage in hotchpot as is aforesayd and if he wil not put the landes geuẽ in frank mariage in hotchpot, then she shal haue nothing in the remenant for this that it shalbe vnderstand by the law that she is sufficientely anaunced to which auauncement she agreeth and holdeth her content, and thesame law is in this matter betwene the dones in frank maryage and the other parceners as to put in hotchpot.&c. the same law is betwene the heyres of the donees in franke maryage and the parceners &c.yf the donees in franke mariage die before

theyr

theyr aunceſters or before ſuch partition. &c. as to put in hotchpot. &c. And note well that gyftes in franke mariage was the common lawe before the ſtatute of weſtmynſter the ſecondc, and alway after ſo hath bene vſed and continued. &c.

¶ Alſo ſuch putting in hotchpot. &c. is wher landes or tenementes that wer geuen in frāk mariage diſcende fro the donours in franke mariage all onely for yt the landes diſcende to the doughters by the father the donour, or by the mother the donour, or by the brother the donour or other anceſters & not by the donor &c. there it is otherwiſe, for in ſuch caſe ſhe to whom ſuch gyft in frāk mariage is made ſhal haue her part as yf no ſuch gyft in frank mariage had bene made, for this that ſhe was not auaunced by hym. &c. but by another.

¶ Alſo yf a manne ſeaſed in. xxx. acres of lande euery acre of euen perely value hauyng iſſue two doughters as it is afore ſayd, and geueth of this to the huſbande of the doughter. xb. acres in frank mariage, and dyeth ſeaſed in the other. xb. acres, in this caſe that other ſyſter ſhall haue the. xb acres ſo diſcended to her onely, and the huſbande & the wife ſhal not put in ſuche caſe the. xb. acres to hym geuen in frāk mariage in hotchpot. &c. for this that the tenementes geuen to hym in franke mariage be of as good perely value as the other landes diſcended. &c.

¶ For

¶ For yf the landes geuen in frank mariage wer of as euen value as the remnaunt or of more value, then in dayne and to none entem ſuche landes geuen in franke maryage ſhalbe put in hotchpot. &c. for thys that ſhe may haue nothing of the other landes diſcended. &c. For yf ſhe ſhold haue any parcel of the other lādes dyſcended then ſhould ſhe haue more in yerely value then her ſyſter. &c. which the lawe will not. &c. And as it is layd in the caſes afore-ſayd of two doughters or two parceners, in the ſame maner and in lyke caſes is, wher ther be moe ſiſters after that as the caſe & the matter is. &c. And it is to wete that landes and tenementes geuen in frank maryage ſhall not be put in hotchpot but with the landes dyſcēded in fee ſymple, or of landes dyſcended in fe tayle partition ſhalbe made as yf no ſuch gyft in frank maryage had be made. Alſo no lādes ſhalbe put in hotchpot with other, but landes that be geuen in frank mariage al onelye. For yf any woman haue any other landes or tenementes by any other gyft in the tayle ſhal neuer put ſuch land ſo geuen in hotchpot. &c. but ſhe ſhall haue her part of the remenaunt, dyſcended. &c. that is as muche as the other parcener ſhal haue of the ſame remenant.

¶ Alſo another partycyon may bee made betwene parceners that varyeth from the partycyons aforeſayde, as yf there bee three parceners and the youngeſt would haue partition, and the other two would be

not

not, but wyll holde in parcenary that that to the belōgeth without particiō. In thys case yf one part be alotted in seuerall to the youngest syster after that that she oughte to haue, then the other may hold the remnaunt in parcenary and occupy in common without partition if they wyll, and such partition is good ynough. And if after the elder and myddel parcener will make partition betwene them of that that they held, they may well doe so whē they please. But where partition shalbe made by force of a wryt de participatione facienda &c. there otherwyse it is, for there behoueth that euery parcener haue hys part in seuerall &c. More shalbe sayde of parceners in the Chapter of ioyntenantes and also in the Chapter of tenantes in common. &c.

Ioyntenantes. Cap. 3.

IOyntenantes be as a man seysed of certayn landes or tenementes &c. & therof hath enfeoffed two or three or fowre, or mo, to haue and to hold to them and to theyr heyres, or to haue and to holde to them for terme of theyr lyues, or for terme of anothers lyfe, by force of whiche feoffement they be seysed, suche be ioyntenauntes.

¶ Also yf two or three disseise another of any landes or tenementes to theyr own vse, then the disseisours be ioyntenantes. But if they disseyse another to the vse of one of them, thē he they no ioyntenantes, but he to whom the

ble of the disseisi is made sole tenant, & the o-
ther haue nothing in the tenãcy but be called
coadiutors to the disseisin &c. And note wel ỹ
disseisin is ꝑperly where a mã entreth into any
landes or tenemẽtz where hys entre is not le-
ful, & putteth hi out ỹ hath the franktenemẽt
&c. And it is to wete ỹ the nature of ioynte-
nãcy is ỹ he that suruiueth shal haue only the
hole tenãcy after such estate as he hath if the
ioynture be cõtinued &c. As if.iii. ioyntenãtes
be in fee siple & the one hath issue & dyeth, yet
they that suruiue shal haue the tenemẽtz hole,
and the issue shal haue nothing. And if the se-
cond ioyntenãt haue issue & dye, yet the thyrd
that suruiueth shal haue the tenementes hole,
& shal haue them in fee symple to hym & to his
heyres, but otherwise it is of parceners for
if.iii. parceners be, & before any partition the
one hath issue & dyeth, that that to hym belon-
geth shall dyscend to his issue & if such a par-
cener dye without issue, then that, that to her
belongeth shal discend to her heyres, so that
they shal haue thys by discent & not by the sur
uyuour as ioyntenãtes haue &c. & as the sur-
uyuour holdeth place among ioyntenãtes &c.
in thesame maner he holdeth place among the
that haue ioynt estate or possession with other
of catel royal, or cattel parsonal. As if a lease
of landes or tenementes be made to many for
term of yeres he that suruiueth of the lesses
shal haue the tenementes hole to hym during
the terme by force of thesame lease. And if

any

any horse, or other cattel parsonall be geuen to manye moe, he that survyueth shall haue them to hymselfe.

¶ In the same maner it is of dettes & duties &c. For yf an obligacion be made to manye for one duetie, he that survyueth shal haue al det & so it is of all other couenantes & contractes.

¶ Also some ioynte rauntes may bee that may haue Ioynte estate and be ioyntenantes for terme of theyr lyues and yet they haue seuerall inheritaunces. As the landes be geuen to two men and to the heyres of theyr two bodyes engendred. In thys case the donees haue ioynt estate for terme of theyr two lyues and they haue seuerall inheritance. For if the one of the donours haue issue & dye, the other that survyueth shall haue al by the survyuour for terme of hys lyfe. And yf he that survyueth hath also issue, and dye, that the yssue of the one shall haue the halfe of the lande. and the yssue of the other shall haue the other half of the lande, and they shall holde the lande betwene them in commune, and be not ioynt tenauntes but tenauntes in commune.. And the case that suche donees in such cases haue Ioynte estate for tearme of theyr lyues, is thys, for thys, that at the begynnyng landes wer geuen to thē two, which wordes without more saying make a ioynt estate to thē for ōme of theyr lyues. For if a mā writer lād to another by dede or without dede, not making mēcō what estate he hath, & of this maketh inue-

te of ſeiſyn. In thys caſe the leſſee ſhall haue eſtate for terme of hys lyfe, and ſo in ſo muche that the landes wer geuen to them, they haue a toynt eſtate for terme of theyr lyues: and the cauſe why they haue ſeuerall inheritaunce is thys, in ſo muche that they cannot by poſſibilitie haue an heyre betwene them engendred as a man and a woman may haue. &c. then the lawe will that theyr eſtate and theyr inheritaunce ſhalbe ſuche as reaſon wyll after the fourme and effect of the wordes of the gyft, and that is to the heyres that the one engendreth of hys body by anye of hys wyues, and the heyres that the other engendreth of hys bodye by anye of hys wyues. et cetera. Do it behoueth by neceſſite of reſon that they ſhal haue ſeuerall inheritaunce. And in ſuch caſe, yf the yſſue of one of the donees after ꝯ deth of the donees dye ſo that he hathe no yſſue alyue of hys body engendred, than the donour or hys heyre may entre in the haife as in hys reuercyon, thoughe the other of the donees hath yſſue alyue &c. And the cauſe is, for ſo much that the inheritaunce be ſeuered. &c. the reuerciō in the law is ſeuered &c. & the ſurui uour of the yſſue of ꝯ other ſhal hold no place to haue ꝯ hole, & ſo as it is ſayd of maies in ꝯ ſame maner it is where land is geuen to. ii. females & to ꝯ heires of their. ii. bodies begotē.

¶ Alſo yf land be geuen to two females and to the heyres of one of them, thys is a good ioyntour, and the one hath a freehold, and the other

other hath fee simple, & if he ẏ hath the fee dye he ẏ hath ẏ free hold shal haue the hole by the suruiuor for time of lyfe. In ẏsame maner it is where tenntes be geuē to two, & to the heyres of the body of one of them engendred, the one hath free hold, and the other fee tayle. Also if two ioyntenantes bee seysed of estate of symple, and the one graunteth a rent charge by hys dede to another oute of that, that to hym belongeth &c. In thys case duryng the lyfe of the grauntoure, the rent charge is effectuall. But after hys decease the rent charge is voyd as to charge the land, for he that hath the land by the suruyuour shal hold al the land dyscharged. And the cause is, for thys that he that suruyueth claymeth to haue the lande by the suruyour. &c. and not by dyscent of hys felow. &c. But otherwyse it is of parceners, for yf there be two parceners of tenementes in fee symple, and before any particion the one chargeth that, that to hym belongeth by hys dede of a rent charge &c. and dyeth without yssue, and that that to hym belongeth dyscendeth to the other parcener. In thys case the other pcener shal hold the lād charged &c. for thys that he cometh to the halfe by dyscent as heyre &c.

¶ Also yf there be two ioyntenauntes in fee symple within one borough where the landes and tenementes within thesame borough be deuysable by testament, yf the one of the sayd ioyntenantes deuyse that, that to hym belongeth by testament &c. and dye, thys deuyse is

voyd. And the cause is for thys that no deuise may take effect but after the death of the deuysour. And for thys that by his death all the land incontinent cometh by the lawe to hys felow that survyueth by the survivour which ne claymeth nor hath nothing in the lande, by the deuyse but in hys owne ryght by the survyuour after the course of the lawe &c. for this cause such deuyse is voyde.

¶ But otherwise it is of parceners seased of tenementes deuysable in such case of deuyse &c. Causa qua supra. Also it is commonly sayd that euery ioyntenant is seased of the land that he holdeth ioyntly &c, through and by all. And this is as much to saye that he is seysed by euery parcel and by all &c. and thys is true, for in euery parcel and by eche parcel, and by all the landes and tenementes he is ioyntly seysed with hys felowes &c.

¶ Also if .ii. ioyntenantes be seysed of certayn landes in fee symple, & that one letteth that, that to hym belongeth to a straunger for term of .ix. yere & dyeth within the terme. In thys case after hys disseas the lessee may enter and occupy the halfe to hym lettē during the terme &c. though the lessee neuer had possession of it in the life of the lessour by force of the lesse &c. And the diuersitie betwene the cause of the grant of a rent charge & this case is thys. For in the graūt of a rent charge by a ioyntenant the tenantes abyde alway as they wer afore without that, that any hath any ryght to haue

parcell

parcel of the tenemētes, but themselfe & the tenementes abide in such plyte as they wer before the charg &c. But where a lease is made by a ioyntenant to another for terme of yeres &c. incontinent by force of the lease the lesse hath right in thesame land, that is to say of all that ꝑ to hys lessour belōged and to haue that by force of thesame lesse during hys terme &c. & thys is the diuersite &c. ¶ Also ioyntenātes if they will, may make partition betwene thē and the partition is good ynoughe, but they shall not be compelled by the lawe to doue it, but if they will make partition of theyr proper will, and agreemente, the partition shall stand in hys strength. P.iii. E. quarti.

¶ Also if a ioynt estate be made of land to the housband and the wife, and to the thyrde parson, in thys case the housebande and the wife haue not in the lawe in their right but the halfe &c. And the thyrd parsone shall haue as much as the housband and the wife hath, that is to say, the other halfe &c. And the cause is for that the husband & the wife be but one ꝑson in the law, & be in like case as if estate be made to.ii. ioyntenātes, where the one hath by force of ioynture the one half & the other ꝑ other half. In thesame maner is where estate is made to the husband & the wife & to other two men, in thys case the housebande and the wyfe haue not but the thyrd parte, and the other.ii. men the other.ii. partes &c. Causa quæ supra. More shalbe sayd of them attouchynge

ioynte-

ioyntenancy in the Chapiter of tenauntes in common tenaunt per Siegit, and tenaunt by estatute marchaunt.

¶ Tenauntes in common. Ca. 4.

TEnantes in common be they that haue landes & tenementes in fee symple, fee tayle, or for terme of lyfe &c. which haue such lãdes and tenementes by seuerall tytle, & not ioynt tytle, and none of them know that, that is seuerall to hym. But they ought by the law to occupy suche landes and tenementes in common, and vndeuyded to take the profites in common. And because that they come to such landes and tenementes by seueral tytles and not by one self ioynt tytle, and theyr occupacion & possession shalbe by the law to be among them in common, they be called tenauntes in common, as yf a man enfeoffe two ioyntenantes in fee and the one of them alieneth that, that to hym belongeth to another in fee, now the other ioyntenaunt and the alyene be tenauntes in common, for thys that they be seysed in such tenementes by seuerall tytles, for the alyene cometh in the halfe by the feoffement of the ioyntenaunt, and the other ioyntenant hath the other halfe by force of the fyrst feoffement made to hym and to hys fyrst felowe, and so they be in by seuerall tytles, and by seuerall feoffementes &c. And it is to wyt that when it is sayd in any boke that a man is seised in fee, without more saying. It shalbe vnder-

vnderstand fee symple, for it shall not be vnderstand by such woord in fee, that a man is seised in fee tayle, except that there be putte therto such addicyon that is to saye fee tayle.

¶ Also yf three ioyntenantes be, and the one of them alieneth that, that to hym belongeth to an other in fee. In thys case the alyene is tenaunt in common with the other two ioyntenantes. But yet the other two ioyntenantes be seysed of the two parties ioyntly, and of these two parties the survivour betwene them holdeth place. &c.

¶ Also yf there be two ioyntenantes in fee, and the one geueth that, that vnto hym belongeth to an other in the tayle, the donee & the other ioyntenant be tenantes in common &c. But yf the landes be geuen to two men and to the heyres of theyr two bodyes ingendred the donees haue ioynt estate for tme of theyr lyues, and yf eche of them haue yssue and dye, theyr issues shall holde in common &c. But yf landes be geuen to two abbottes, as to the abbot of westmynster, and to the abbot of. S. Albons, to haue and to holde to them and to theyr successours, in thys case they haue incontinente at the begynnynge estate in common, and not ioynt estate. And the cause is for thys, that euery abbot or other soueraygne of an house of religion before that he be made abbot or soueraygn, was but a dead man in the law. And when he is made abbot he is as a man personable in the lawe, alonely to purchase

chase and to haue lands and tenementes and other thynges to the vse of hys house and not to hys own proper vse, as other secular men may, And for thys in the begynnyng of theyr purchase they be tenantes in common. And if the one of them dye, the abbot that survyueth shal not haue al by the survyuour but the successour of the abbot that dyeth, shall holde the halfe in common with the abbot that survyueth &c.

¶ Also if landes be geuē to an abbot & to a secular man to haue and to holde to them, that is to say to the abbot and his successours, and to the secular mā, to hym & to his heyres they haue estate in common. Tanta qua supra.

¶ Also if landes be geuē to two men to haue & to hold, the one half to the one & to his heyres, & the other halfe to the other, and to theyr heyres they be tenantes in common &c.

¶ Also if a man seysed of certaine landes enfeoffeth another in the halfe of the same lande without any speche or assignmēt or limitacīō of the same half in seuerall at the time of the feoffement, thē the fesse & the fesour shal hold the parties of the lād in comō. And in the same maner as is afore said of tenantes in comō of landes or tenemētes in fee simple or fee tayle In the same maner may it be sayd of tenantes for terme of life. As the two ioyntenantes be in fee, & the one letteth to a man that, that vnto hym belongeth for terme of lyfe, and the other ioyntenant letteth that, that to hym belongeth

longeth to an other for terme of life these two lessees be tenauntes in common for terme of theyr lyues &c.

¶ Also if a man let landes to .ii. mē for terme of theyr liues, & the one graūteth al hys estate of that, that vnto hym belōgeth to another &c. than that other tenant for terme of lyfe, & he to whō the graunt is made be tenantes in cōmō duryng the tyme that both lessees be alyue.

¶ And it is to be remembred that in all other such cases though that they bee not here expressely named or specifyed, if they be in lyke reason they be in lyke lawe.

¶ Also there be two toyntenantes in fee and the one letteth that, that vnto hym belongeth to another for terme of lyfe during hys lyfe & the other tenaunt that dyd not let, bee tenantes in comon. And vpon thys case a question may ryse as thys, But the case that the lessour hath issue & dieth, leauing ỹ other toyntenant hys felow & liuing the tenant for terme of life, the questiō may be such, if ỹ reuercion of the halfe &c. ỹ the lessour hath, shal discend to the issue of the lessour, or ỹ the other toyntenant shal haue it by the survyuour. And some haue sayde in thys case, that the other toyntenant shal haue the reuercion by the survyuour, and their reason is such, whē the toyntenātes were toyntly seised in fee simple &c. though the one of thē made estate of ỹ, that vnto hī belōgeth for term of life, & though that he hath thereof frankftenement of that, that to hym belongeth by the

by the leaſe, yet he hathe not ſeuered the fee ſymple. But the fee ſymple abydeth to hym ioyntly as it is was before. And ſo it ſemeth vnto them that the other ioynt tenaunt that ſurvyueth, ſhall haue the reuercion by the ſurvyuour &c. And other haue ſayd the contrary, and thys is theyr reaſon when one of the ioynt tenauntes letteth thys that to him belongeth to another for terme of hys lyfe, that by ſuche leaſe the frankftenement is ſeuered from the ioynture. And by theſame reaſon the reuercion that is dependant vnto theſame frankftenement, is ſeuered from the ioynture. Alſo yf the leſſour had reſerued to hym a yerely rent vpon the leaſe, the leſſour only ſhall haue the rent. &c. The which is a proofe that the reuercio is only in hi. & that the other hath nothing in the reuercio &c. Alſo yf the tenāt for time of life wer impleded &c. & made defaut after defaute, than the leſſour ſhalbe only of thys receyued to defend hys right, and hys felowe in this caſe in no maner ſhalbe receued, which proueth that the reuercion of the half is onely in the leſſour. And ſo by conſequens, if the leſſour dye ſurvyng the leſſee for terme of lyfe the reuercion ſhall diſcend to the heyres of the leſſour &c. and not come to the other ioyntenaunt by the ſurvyuour. Ideo quere. But in thys caſe yf the ioyntenāt that hath the frankftenement haue iſſue and dye, ſurvyng the leſſour and the leſſee, than it ſemeth that the iſſue ſhall haue the halfe in hys demeſne as of

fee

fee by dyscent for thys that the frankstenemẽt may not by nature of the toyntour be annexed to a reuercion &c. And it is certayn that he ỹ letteth, was seysed of the half in hys demesne as of fee, and none shall haue any toynture in hys frankstenement. Ergo thys shall discende to yssues. Sed quere. But if it be thus, that the law in thys case is such, that if the lessour dye, leauing the lessee, and leauyng the other toyntenaunt that hath the frank tenement of the other halfe, that the reuercion shal descend to the issue of the lessour, then is the toynture and the tytle that any of them may haue by the survyuour by the vyght of the toynture annulled and all vtterly defeted for euer.

¶ In thesame maner it is if the toyntenaunt that hath the frankstenement dye, leauyng the lessour and the lessee, yf the lawe be such that hys frankstenement and fee that he hath in the halfe shall discende to hys issue, then the toynture shalbe defeted for euer &c.

¶ Also yf three toyntenauntes bee, and the one releaseth by hys deede to one of hys felowes all the vyght that he hath in the land, then hath he to whom the release is made the thyrd part of the landes by force of the release and he and hys felowe shall holde the other ii. partz toyntly. And as to the thyrd part that he hath by force of the release, he holdeth the thyrd part w̄ hymself, & hys felow in commō.

¶ And it is to witte that sometyme a dede of release shall take effecte and shall be in dze to

put

put the eſtate of him that made the releaſe, to hym to whome the releaſe is made, as in the caſe aforeſayd.

¶ And alſo if a ioint eſtate be made to the huſband & his wyfe, and to a thyrd perſon, & the third perſon releaſeth his right that he hath, &c. to the huſband, the hath the huſband the halfe that the thyrd perſon had, & the wyfe of thys hath nothing. And if in ſuch caſe the thyrd releaſe &c. to the wife not naming the houſband in the releaſe, the hath the wyfe the halfe that the thyrd perſō had. And the huſband had nothing of this, that in right of his wife, for this that in ſuch caſe the releaſe ſhal enure to put the eſtate to him to whō the releaſe is made of al that, that belonged to him that made the releaſe &c. And in ſome caſe a releaſe ſhal enure to put al the right that he hath that made the releaſe to him, to whome the releaſe is made. As a manne ſeyſed of certayne landes and tenementes, is diſſeiſed by two diſſeyſoures, if the diſſeiſy by hys dede releaſe all hys ryghte et cetera, to one of the diſſeiſoures, than he to whome the releaſe is made, ſhall haue and holde all the tenementes to hym oncly, and putte out hys felow of euery occupacion of it. And the cauſe is for thys that the two diſſeiſours were ſeyſed in the tenementes by wrong by them doone agaynſt the lawe. And when one of them happeth the releaſe of him that hal right to enter &c. Thys right in ſuch caſe reſteth in hym to whom the releaſe

releaſe is made, and is in ſuche plight as if he that had the ryght had entred and enſeoffed hym &c. And the cauſe is for this that he that hath before had an eſtate by wrong that is to ſay by diſſeiſyn now by the releaſe a right full eſtate.

¶ And in ſome caſe a releaſe ſhall enure by way of extinguiſhment & in ſuch caſe ſuch releaſe ſhal helpe the ioynt tenāt to whom the releaſe was not made as wel as him to whom the releaſe is made. And if a man be diſſeyſed & the diſſeiſour maketh a feoffement to .ii. mē in fee if the diſſeiſi releaſe to one of the feoffours in fee by his dede thā ſuch releaſe ſhall enure to both the feffees for this that the feffees haue eſtate by the law that is to ſay by the feofmēt & not by wrōg done to any other.

¶ And in the ſame maner is, yf the diſſeiſour make a leaſe to a manne for terme of ayſe, the remaindre ouer to an other in fee if the diſſeiſi releaſe to the tenaunt for terme of life al hys right &c. This releſe enureth as wel to hym in the remaindres to the tenāt for tme of life &c. And the cauſe is for this ỳ tenāt for tme of life commeth to his eſtate by the courſe of the law. And for this the releaſe ſhal enure & take effect by way of extinguiſhment of the ryght of him that hath releſed &c. And by thys releſe the tenaunt for terme of ayte hath no great eſtate thā he had before the releaſe made vnto hym, & the right of him that releaſed is all vterly extynct. And in ſo muche that ſuche releaſe

releaſe cannot enlarge the eſtate of the tenãt for terme of lyfe it is reaſon that the releaſe ſhall enure to hym in the remainder &c. More ſhalbe ſayde of releaſes in the Chapter of releaſe.

¶ Alſo if there be two parceners, and the one alyeneth that vnto hym belongeth to another, than the other parcener and the aliene be tenantes in common.

¶ Alſo tenauntes in common may be by tytle of preſcripcion, yf the one and hys auncеſters or they that whoſe eſtate he hath in the half haue holden in common, the ſame halfe with the other tenaunt that hath the other halfe, and with hys auncеſtres or them whoſe eſtate he hath at vndeuyded fro tyme whereof no memory renneth &c. And diuers other maners may make and cauſe men to be tenantes in common that be not here expreſſed.

¶ Alſo in ſome caſe tenantes in comon ought to haue theyr poſſeſſion ſeuerall accions, and in ſome caſe they ſhal ioyne in one accion. For if there be two tenantes in common and they be diſſeyſed, they ought to haue agaynſte the diſſeyſour two aſſiſes and not one aſſyſe, for euerye of them ought to haue an aſſyſe of hys halfe &c. and the cauſe is for thys ỹ tenantes in common wer ſeiſed by ſeuerall tytles, but otherwyſe it is of ioyntenantes. For if there be .xx. ioyntenantes and they be diſſeiſed. they ſhall haue in all theyr names but one aſſyſe, becauſe that they had but one ioynt tytle.

¶ Alſo

Also yf there be thre toyntenauntes and one releaseth to one of his felowes all the right that he hath and after the other two be disseased of the whole. &c in this case the other shal haue seueral assyses in this fourme, ỳ is to saye they shall haue in bothe theyr names one assyse of the two partes. &c. for this that they holde the two parties toyntlye at the tyme of the disseisin. And as to the thyrde parte, he to whom the release was made ought to haue therof an assyse in his own name, for this that as to the thyrde part he is tenant in common &c. for this that he came to the thyrde part, by force of the release and not onely bee force of the toynture.

¶ Also as to sue actions that toucheth the royaltie, there is diuersitie betwene parceners that be in by diuers discentes, and tenants in common. ¶ For yf a man seased of certayne landes in fee haue issue two doughters and dye and thei enter. &c. and eche of them hath issue a sonne and dye without partition made betwene them by which the one halfe discendeth to the sonne of the one parcener, and the other halfe discendeth to the sonne of the other parcener. and they enter and occupy in comō and be disseased, in this case they shal haue in their two names one assise and not two assises. And the cause is, that though thei come in by diuers discentes. &c. yet they be pceners & a writ de participatione facienda lieth betwene thē. And they be not pceners hauing regarde

wt respect onely to the seysyn and possessiõ fro theyr mothers, but they be parceners hauyng moze respect to the estate that descended from their grandfather to theyr mothers. ¶ Foz they may not be parceners where their mothers wer not parceners befoze. &c.

¶ And so to such respect & consideracion, that is to wytte as to the fyrst descente that was to their mothers thei haue a tytle in parsonary, the which maketh thẽ parceners. And also they be but as one heyze to their comon ancestor that is to say, to theyr graundfather from whõ the land descended to their mothers. And foz these cases befoze partycion betwene thẽ, &c. they shold haue one assyse though they com in by seueral discentes. &c.

¶ Also yf there be two tenantes in common of certayn landes in fee, & they gaue the same land to another man in the tayle, oz let it to another manne foz terme of ipse, reseruyng an annuitye oz certayn rent, and a pounde of peper oz an hawke, oz an hoze, and they bene seased of these seruices and after all the rent is behynde, and they distrayne foz it, and the tenant maketh them rescous.

¶ In that case as to the rente and the pounde of peper, they shall haue two assyse, and as to the hawke and the hoze but one assyse. and the cause why they haue twoo assyses as to the rente and pounde of peper is thys, in so muche that they were tenauntes, in common by seuerall tytles and whan they made

made a gyft in the taple or leale for terme of lyfe. &c. sauing to the the reuercion & yelding to them certayn rent. &c. Such reseruacion is incident to the yr reuercion.

¶ And for this that the yr reuercion is in comon and by seuerall tytles, as the yr possession was before the yr rent, and other thinges that may be seuered and were to them reserued vpon the gyft or vpon the leale which bee incydent by the lawe to the reuercion, such thinges so seuered was of the nature of the reuercion which reuercion is to them in common by seuerall tytles. And it behoueth that the rent of the pounde of peper which may be seuered is to them in common, by seuerall tytles. And of this they shall haue two allyses and euery of them in his allyse shall make his playnt of the half of the rent and of the half of the pounde of peper. &c.

¶ But of the hawke and the hors which cannot be seuered, they shall haue but one allyse for a man may not make a playnt in allyse of the half of an hawke or of the half of an horse. &c. In the same maner it is of other rentes and seruices that tenauntes in common haue in grosse by diuers tytles.

¶ Also as to actions personels, tenauntes in common ought to haue such actions personels ioyntly in all their names, that is to saye of Trespas, or of offences that touche their tenauntes in common. As of breakyng of their howses, breakyng of their closes, and

pastures wastyng & defouling of their grasse, cuttyng of theyr woode and to fyshe in theyr pondes and suche other. In this case tenants in comon shal haue one accion ioyntly & recouer ioyntly damages because that the accion is in the parsonaltie and not in the realtie.

¶ Also yf two tenantes in comon make a lease of theyr two tenementes to another for terme of yeres yeldyng vnto them yerely a certayn rent yf the rent be behynde. &c. the tenants shall haue one accion of det agaynst the lessee and not diuers accions for that the accion is in the parsonaltie.

¶ Also tenauntes in comon may make particion betwene them yf they wyll thoughe they shall not be compelled by the lawe. But yf they make particion betwene thē by theyr agrement and assent such particion is good ynough, as it is adiudged in the boke of assyse. P.3.E.4.

¶ Also as there be tenauntes in comon of landes or tenementes. &c. as is aforesayd. In the same maner there be possessions and proparties of chatel real and chatel parsonal. As yf a lease be made of certayn landes to twoo men for terme of. xx. yeres, and whan they be therof possessed. the one of the leases grauntеth that. that vnto hym belongeth before ẏ terme to another than he to whō the grant is made and the other shal holde and occupy in comon.

¶ Also if two ioyntenantes haue the warde of the body & of the landes of the child within

age,

age and that one of them granteth to another that, that vnto hym belōgeth of the same ward than the graunt and the other that graunteth not shal haue and holde it in comon. &c.

¶ In the same maner it is of chatels parsonels as yf two haue a ioynt estate by gyfte or by bying of an horse or an oxe. &c. the one of them graunteth that that to him belongeth of the same horse or oxe. &c. Than the graunt and he that graunted not shall haue and possesse suche chatel parsonell in comon. &c. And in such cases where diuers parsons haue chatels reals or parsonels in comon and by dyuers titles, yf the one of them dye, the other that suruyueth shall not haue that by the suruyuour. But the executours of hym that dyeth shall holde & occupy that with hym ẏ suruyueth as theyr testatour dyd or ought in this lyfe. &c. for this that theyr tytles and right in this case wer seuerall,

¶ Also in this case aforesaide yf two haue estate in comon for terme of yeres & the one occupy all and put the other out of his possession and occupacion. Than shal he that is put out of occupacion haue agaynst that other a writ de eiectione fyrme for the halfe agaynste the other. In the same maner it is where two holde the warde of landes or tenementes duryng the nonage of a child, yf one put out the other of hys possession, he that is out shal haue a wrytte of eiectment de garde of the halfe for thys that those thinges be Chatels reals,

and may be apporcioned and seuered.&c. But no such accion of trespas, that is to say. Quare clausum suum fregit et herbam suam conculcauit & consumpsit.&c. And suche lyke accions the one may not haue agaynst ẏ other, for thys that eche of them may enter and occupy in comon.&c. through and by all the tenementes which they holde in common. But yf two be possessed of chatels parsonels in commō by diuers tytles, as of an horse or an oxe or a bowe yf the one take it all to hymself out of the possession of the other, the other hath none other remedy but to take this of hym that hath done to hym the wrong for to occupy in comō whā he may see hys tyme.

¶ In the same maner it is of chatell reale that may not be seuered as the case aforesayd two be possessioners of a warde of the body of a chylde within age, yf one take the chylde out of the possession of the other, the other hath no remedy by any accion by the lawe but to take the chylde out of the others possession whā he seeth his tyme.&c.

¶ Also whan a man in pledyng will shew a dede of feoffement made vnto hym, or a gyft in the tayle, or a lease for terme of lyfe of any landes or tenementes, there he shall saye by force of which feoffement gyft or lease he was seased.&c.

¶ But wher a mā wil pleade a lease or a grāt made vnto hi chatel real or parsonal, there he shall saye pforce of whiche he was possessed.

More

Whose shalbe sayd of tenantes in comon in the chapiter of releases, confyrmacyons & tenātes par elegit.

¶ Estates vpon a condicion. Capi. v.

ESTates that men haue in landes or tenemēts be in two maners. That is to say, thei haue estate vpon condicion in dede or vpon condicion in lawe. Vpon condicion in dede is, as a man by dede indented enfeoffeth another in fe reseruing to him and to his heires yerely a certayn rēt payable at one feast or at diūs festes yppere, vpon condicion that yf the rent be behynde. &c. that it shalbe lawfull to the feoffour and to hys heyres to enter into the landes or tenementes. &c.

¶ Or yf the land be aleyned to another in fee, to holde vnto hym certayn rent. &c. And yf it hap that the rent be behynde by a weke after any day of payment of it, or by moneth, or by a halfe yere after any day of payment, that than it shalbe lawfull the feoffour and to hys heyres to enter. &c.

¶ In this case yf the rent be not payde at such a tyme or before such a tyme limited and specifyed within the condicīō comprysed in the indenture thā may the feoffor or his heires enter into such landes or tenemēts, & them in hys fyrst estate to haue and to holde, and of hys to putte the feoffee cleane oute, and it is called estate vpon condicion, for thys that the

estate of the feoffe is defensable yf the condicion be not parfourmed.

¶ In thesame maner it is yf landes be geuen in the tayle, or let for terme of lyfe, or for terme of yeres, vpon suche condicion, &c. But where a feoffement is made of certayn landes reseruyng certayn rent vpon suche condicion that yf the rent be behynde that it shalbe lawfull to the feoffour and his heyres to enter in the lande to holde tyll they bee satysfyed or payde of theyr rent behynde, &c. In this case yf the rent be behynd and the feoffour and his heires enter, the feoffe is not excluded clene out. But the feoffour shall haue and holde the lande and take the profites tyll that he be satisfyed of the rent behynde. And when he is satisfyed, the feoffe may reenter in thesame lād and holde it as he dyd before, for in such case the feoffour shal haue it, but in maner for a destresse in the meane tyme, tyll he be satysfyed of the rent, &c. shall take the profytes in the meane tyme.

¶ Also diuers wordes among other there be that by vertue of themself make estate vpō condicion. One is this worde of condicion as A enfeoffeth B. of certaine lande to haue and to holde to the same. B. and his heyres vpon condicion that thesame B. and his heyres shal paye or do to be payde to the foresayd. A. and to his heires yerely such rent, &c. In this cases without any more saying the feoffee hath estate vpon condicion. Also if the condicō wer

such

such. Prouided alway that the aforesayde B. pay or do to be payde to the aforesayd A. suche rent. Or yf they wer thus, so that ꝯ aforesayd B. pay or do to be payde suche rent. In these cases without any more sauing ꝯ feoffee hath estate but vpon condicion, so that if he pforme not the condicion the feoffour and hys heyres may enter. &c.

¶ Also other wordes there be in a dede that causeth the tenauntes to be condicionels, as vpon such a feoffement a rent is reserued to the feoffour. &c. and after it is put in dede that yf it chaunce the aforesayde rent to be behynd in parte or in all. &c. that than it shalbe lawful to the feoffour and to his heyres to enter. And this is a dede vpon a condicion. But there is diuersitie betwene these wordes if it chaunce. &c and the wordes next aforesayde. ꝯ for thys worde if it chaunce. &c. is nought worthe to suche condicion, but if it haue these woordes folowyng, that is to saye, that it shalbe lawful to the feoffour and to his heyres to enter. &c. But in these cases aforesayd it nedeth not by the law to put such clause, that is to saye, that the feoffour and hys heyres maye enter. &c. for this that they may so dooe by force of the woordes aforesayde, because they conceiue in themselfe in the lawe a condicion, that is to saye, that the feoffour and hys heires maye enter. yet it is commonlye in all such cases aforesayde to putte suche clauses in the dedes, that is to saye, yf the rent be behynde

hynde.&c.that it shall be lawfull to the some feoffour and his heyres to enter.&c. And thys is well done to that intente for to declare and expresse to the lay men that be not learned in the law, the maner and the condicion of the feoffement.&c. As a man seased of lande as of frankstenement, let the same lande to another by dede endēted for terme of yeres, yelding vn to hym certayn rēt, it is vsed to put in the dede that yf the rent be behynde at the day of payment by a moneth.&c. That than it shalbe lawfull to the lessour to dystrayne.&c. and yet the lessour may dystrayne of common right for the rent behynde.&c. though suche wordes neuer were set in the dede.&c.

¶ Also yf any feoffement be made vpō such condicion, that yf our feoffour pay at a certain daye &c. xx. li. of money that then the feoffours may enter.&c. In thys case the feoffe is called tenaunt in mortgage, that is almuche to saye in frenche as mortgage, and in latin mortuū vadium, and in Englishe a dead pledge. And it semeth that the cause why it is called mortgage is for that, that it standeth in doubt if the feoffour may pay at the daye ympted suche a summe or not, and yf he pay not, then the lande that is put in pledge vpon condicion for the paymente of the money is gone from hym for euer. And so deed as to the tenant.&c.

¶ Also as a man may make a feoffement in fee in mortgage, so may a man make a gyfte of the tayle in mortgage, and a lease for terme

of

of life, or for terme of yeres in mortgage. And al such tenauntes be tenantes in mortgage after the state that they haue in the landes, et cetera.

¶ Also yf a feoffement be made in mortgage vpon condicion that the feoffour shal pay such a summe at such a day. &c. as is betwene them by theyr dede endented accorded and ymytted though the feoffour dye before the day of payment. &c. yet yf the heyre of the feoffour pay the same summe within the day to the feoffe, or after hym the money, and the feoffee refuseth to receyue it, then maye the heire enter in to the landes. And yet the condicion is, yf the feoffor pay suche a summe at such daye. &c. and not making mencion in the condicion of any payment to be made by hys heyre. But for this that the heyre hath interest of ryght in the condicion. &c. and the intente was but that the money shoulde bee payde at the daye sette. &c. and the feoffee hathe no more damage to bee payde by the heyre, then thoughe he were paybe by the father, et cetera, for thys cause yf the heyre paye the moneye or tendeth the money at the daye sette, et cetera, and the other refuseth it, he maye well enter. But yf a straunger of hys owne head that hath no interest. &c. woulde tende and paye the money at the daye sette then the feoffee is not bounde to receiue it &c.

¶ And it is to be had in mynde that in suche case where suche lawfull tender of the money

is made and the feoffee refuseth to receyue it, wherfore the feoffour or his heyres doe enter &c. then the feoffe hath no remedy to haue the money by the coman law, for this that it shall be erected his owne foly that he refused the money when lawfull profer was made of it vnto hym. &c.

¶ Also yf a feoffement be made in such condicion, that yf the feoffe paie to the feoffour at such a daye betwene them limited. xx. li. that than the feoffe shall haue the land to him and to his heyres and yf he fayle to pay the money at the day. &c. that then it shalbe lawfull to the feoffour or to his heyres to enter. &c. and if after before the day set, the feoffee selleth ỹ land to another, and therof maketh a feoffement vpon him in this case yf the seconde feoffe will tende the summe of money at the day sette to the feoffour, and the feoffour refuseth it. &c. the hath the seconde feoffe estate in the lād clerely without condicion. And the cause is for, that ỹ seconde feoffe had interest in the condicion for saluacion of his tenaunce. And in this case it semeth that if the fyrst feoffe after such sale of the lande wyll tende the money at the day set &c. to the feoffour, that shall bee good ynough for the saluacion of the estate of the seconde feoffe, for this that the fyrst feoffe was preuy to the condicion, and so the tender of anye of them is good ynough &c.

¶ Also if the feoffement be made vpon condic̄ that yf the feoffor pay a certain sum of money

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to the feoffe that then it shalbe lawful to the feoffour and to hys heyres to enter. &c. In thys case yf the feoffor dye before the daye of payment, and the heyre wil tender to the feoffe the money, such tender is void, for thys that the tyme within which the tender ought to be made is past. For when the condicion is, that if the feoffor pay the money to the feoffe, this is asmuch to say, that yf the feoffour duryng hys lyfe paye the money to the feoffee. &c And when the feoffor dieth then the tyme of the tender is past, But otherwyse it is, wher a day of payment is tymytted, and the feoffour dyeth before the day then may the heyre tender the money as it is aforesaide, for thys at the tyme of the tender was not past by the death of the feoffor. Also it semeth in such case wher the feoffor dyeth before the day of payment yf the executors of the feoffor, tender the money of the feoffe at the day of payment, the tender is good ynough. And yf the feoffe refuse thys the heires of the feoffor may enter. &c And the cause is, for this that the executors represent the pson of their testator. &c. And note wel, ỹ al such cases of condicion of payment of certayn sum in grosse touching landes or tenementes if lawful tender be once refused, he ỹ ought to pay the money is therof assoyled and clerely discharged for euer after.

¶ Also if the feoffe in mortgage before the day of payment that shalbee made vnto hi make hys executors & dye, & his heire entreth into the lād as

as he ought. It semeth in this case ꝑ the feoffour ought to pay the money at the day set to the executours, and not to the heyr of the feoffee for this that the money at the begynning belonged to the feoffe in maner as a duette. And shalbee vnderstande that the estate was made because of borowyng of the money of the feoffee, or because of another dutye. And for thys the payment shall not be made to the heyr of the feoffe as it semeth. But the wordes of the condicion may be such that the payment shalbe made vnto the heyre as ꝑ the condicō wer, that the feoffor pay to the feoffe or to his heyres such a sum at such a day. &c. There after the death of the feoffe if he dye before the day limited, then the payment ought to be made to the heyr at the day set. &c.

¶ Also in such case of a feoffment in mortgage, a questiō hath bene demanded in what place the feoffor is bound to tender the money to the feoffe at the day set. &c. And some haue sayde that vpon the lande so holden in mortgage for this that the condicion is dependant vpon the lande, and they haue sayde that ꝑ the feoffour be redy vpon the land to pay the money at the feast or day set, and the feoffee be not at that tyme ther, that then the feoffour is excluded, and discharged of payment of the money, for this that no defaut was in him, but it semeth to sō men ꝑ the law is contrary. ꝑ the defaut is i hi For he is bound to sehe the feoffe if he be then at any time in any maner of place within the

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realme of England. As if a man be bound in an obligacion of .xx. li. vpon condicion indosed vpon the obligacion that if he pay to hym to whom the obligacion is made at suche a day. x. li. that then the obligacion of .xx. li. shall lese hys force and shal be holde for nought in this case it behoueth hym that made the obligacion to seke hym to whom the obligacion is made, yf he be within Englande, and at the daye sett to tendre to hym the sayd x. li. &c. And otherwyse he forfaiteth the sum of .xx. li. comprysed within the obligacion, and so it semeth in the other case &c. And though that some haue sayd that the condicion is dependant vpon the lād yet this is not proued that the seasunce of the condicion to be parfourmed ought to be mad vpon the land. &c. No more then yf the condycion wer that the feoffour should do at such a day. &c. an especial corporal seruice to the feffe not naming the place wher the corporall seruices should be done. In this case the feoffor ought to do such corporal seruice at the daye limit to the feoffe i whatsoeuer place in England that the feoffe be if he will haue auauntage of the condicion. &c. And so it semeth in that other case. And it semeth to them that it shalbee more properly sayde that the estate of the lande is dependaunt vpon the condicion, &c. whiche is asmuche to saye, that the condycion is dependaunt vpon the sayde. &c. but enquyre. &c.

¶ But yf a feoffement in fee be made reser-

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uyng to the feoffor an annuel rent, and for de-faut of payment a reentre. &c. in this case it ne deth not to the tenant to tender the rēt when it is behynde, but onely vpon the lande, for this that this is a rent goyng out of the land, for this is rent seche. ¶ For yf the feoffour bee once seased of this rent, and after he commeth vpon the lande. &c. and the rent is denyed hym &c. he maye haue assyse of nouel disseisin, for though he may enter because of the condicyon broken yet he may chose, that is to say, to en-ter or to haue an assyse. And so is there diuer-sitie as to the tender of the rent that is goyng out of the land and of tender of another sūme in grosse which is not goyng out of any lande And therfore it shalbe sure and a good thyng for them that wyll make suche feoffemente in mortgage, to put and set a specyal place wher the money shalbe payde. And the more specy-all that it is put the better it is for the feoffor As yf A. enfeoffe. B. to haue to hym and to hys heyres vpon suche condicion, that yf. A paye to B. in the feast of sayncte Mychaell the archangell next comig in the cathedral church of S. Paul of Londō within .4. houres nexte before the houre of none of thesame feast at the rode loft of the north dooze within the same church or any other certain place within the same church that than it shalbe lawfull to the forsayd. A. and to hys heyres to enter. &c. In suche case it nedeth not to seke the feoffee in any other place but in the place comprysed

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in the indenture nor to be there more longer tyme than the tyme specifyed in the same indẽture, for to tender or pape the money to the feoffee.

¶ Also in such case where the place of payement is limit, the feoffee is not bounde to receyue the payment in none other place, but in the place so lumpted. But yet if he receyue the payment in any other place, thys is good ynough and as strong for the feoffour, as yf the resceyt had be in the place so lumpted &c.

¶ Also in thys case of feoffemẽt in mortgage, if the feoffour pay the feffee an horse or a cup of syluer, or a tyng of gold, or any other suche thyng in full satisfaccion of the money, and the other thys receyueth, thys is good ynough & as strong as if he had receyued the summe of money, though the horse, or any of the other thynges be not the twenty parte worth in value of the summe of money, for thys that the other hath accepted it in playn and full satisfaccion.

Also yf a manne enfeoffe another in fee vpon condicion that he and hys heyres shall yelde to a straunger and hys heyres a yerely rent of .xx s. and yf he and hys heyres fayle of payment of thys, that then it shalbe lefull to the feoffour and to hys heyres to entre, thys is a good condicion. And yet in thys case, though such a yerely rent be called an annuell rent, thys is not properly a rẽt, for if it shalbe rent, it ought to be rent seruice, rent charge, or rent

seche, & yet it is none of them, for yf the stranger wer seysed of thys & after it were to hym denyed, he shall neuer haue assyse of thys, for thys that it issueth not out of any landes, and so the straunger hath no remedy if any suche perelye payment be had behynd in tys case, but that the feoffour and hys heyres may entre &c. and yet yf the feoffour and hys heyres entre for defaute of payment, then such rent is gone for euer. And so such rent is but a payment set to the tenant and to hys heyres, that if they will not pay thys after the fourme of the indenture that they shall lease theyr land by the entre of the feoffour or hys heyres for defaute of payment. And in thys case it seemeth that the feoffee and hys heyres ought to seeke the straunger and hys heyres if they bee in England, because that no place is limitted where the payment shalbe made, and because that suche rent is not goyng out of any land &c.

¶ And here note well .ii. thynges. One is that no rent that is properly sayd rent may be reserued vpō any fessement, gyft or lease, but onely to the fessor or to the fessor or to theyr heires, & in no maner may be reserued to any strange parsone. But if .ii. toyntenantes make a lease by dede indented reseruing to the one a certayn perely rent, that is good ynough to hym to whom the rent is reserued for thys that he is priue to the lease and not a straunger to this &c. The second thing is, that no entre or reen

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tre which is all one, may be reserued nor geuen to any parsone, but onely to the feoffour or to the donour or to the lessour, or to theyr heyres, and such entre may not be alieued nor granted to any parson. ¶ For if a mã let landes to another for terme of lyfe by indenture, yelding to the lessour and to his heyres a certain rent. & for defaut of paymẽt a reentre &c. if after the lessour by a dede graũt the reuercion of the land to another in fee, and the tenant for terme of life attorneth &c. if the rent after be behynd the graũt of the reuerciõ may distrain for the rent, for thys that the rent is incident to the reuercion. but he may not entre into the land and putte out the tenaunt as the lessour myghte or hys heyres yf the reuercion hadde been continued in themet cetera. And in thys case the entre is taken awaye at all tymes, for the graunte of the reuercyon maye not enter, Causa qua supra. And the lessoure nor hys heyres may not enter, for if the lessour mayentre. then he ought to be in his first estate &c. and that may not bee, for thys that he hath from hym the reuercion &c.

¶ Also if there be lord and tenaunt, and the tenant make such a lease for terme of lyfe, yelding to the lessour and to hys heyre such yerely rent, and for defaut of payment a reentre &c. if after the lessour dye without heyre, duryng the state of the tenaunt for tearme of lyfe, by whiche the reuercyon commeth to the lorde by waye of eschete, and after the rent of the

tenaunt for terme of lyfe is behynd, the lord may diſtrayn the tenant for the rent behynd, but he may not enter into the land by force of the condicion &c. for thys that he is not heyre to the feoffour &c.

¶ Alſo if land be granted to a man for term of yeres vpon a condicion, that if he pay to the grauntour within two yeres .xl. marke, that then he ſhal haue the land to hym and to hys heyres. &c. In thys caſe, if the graunte enter by force of the graunt, and after he payeth to the grauntour .xl. marke within the .ii. yeres yet he hath nothyng in the land but for terme of the two yeres, for thys that no liuerey of ſeiſin was to hym made at the begynnyng, for if he had frankitenement and fee in thys caſe becauſe he hath perfourmed the cõdicion. The ſhould he haue frank tenement by force of the fyrſt graunt where no liuerey of ſeyſin was made therof, which ſhould be agaynſt reaſon &c. But if the grauntour had made liuerey of ſeiſyn to the grauntee by force of the graunt, then hath the grante the frank tenement and the fee vpon the ſame condicion.

¶ Alſo if landes be graunted to a manne for terme of fyue yeres, vpon condicion that he paye to the grauntour within the fyrſt two yere .xl. markes that than he ſhal haue fee or elles but for terme of the fyue yeres, and liuerie of ſeyſin is made to hi by force of the grãt. Now he hath in fee ſumple cõdicionel &c. And if in thys caſe the graunt pay not to the graun

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tour the.ix.marked within the same two fyrst yeres thā immediatly after the same two yeres the fee and the frankstenement is and shalbe adiudged to the grauntour, for thys that the grauntour may not after the two yeres incontinent enter vppon the graunt, for thys that the graunte hath yet tytle by three yeres to haue and to occupy the land by force of the same graunt. And so for thys, that the condicton of parte of the graunte is broken and the grauntour may not enter, the lawe shal putte the fee in franke tenement in the grauntour. For yf the grauntour in thys case made wast then after the breakyng of the condicion &c. and after the two yeres the grauntoure shall haue hys writte of wast, and thys is a good proofe that the reuercion is to hym &c. But in such case of feoffmentes vpon condicō where the feoffour may enter lawfully for the condicion broken &c. There the feoffour hath the frankstenement before the entre. &c.

¶ Also if a feoffment be made vpon such condicion that the feoffee shall geue the lande to the feoffour, and to the wyfe of the feoffour, to haue and to hold to them and to the heires of theyr two bodies engendred, and for defaute of suche issue, to remayne to the ryghte heyres of the feoffour. In this case if the husband dye, leuyng the wyfe before estate in the tayle made to hym, than ought the feoffee by the lawe to make estate to the wyfe, as vnto the condicion, and as vnto the entent of

of the condition as he may make it, that is to ſay, to lette the land to the wyfe for terme of lyfe without impechement of waſte, the remaynder after her deceaſe to the heyres engēdred of the body of her huſband and hers, and for defaut of ſuch iſſue, the remaynder to the ryght heyres of the huſband.

¶ And the cauſe why the leaſe ſhalbe made in thys caſe to the woman ſole without impechement of waſt is for thys that the condicion is, that the ſtate ſhalbe made to the huſband & hys wife in the tayle. And if ſuch eſtate had be made in the life of the huſbād the after the death of her huſband, ſhe had eſtate in the tayle ſole which eſtate is without impechement of waſt, and ſo it is reaſon that yf after a man may make eſtate to the intent of the condicīō &c. that he ſhal make it &c. though that ſhe cannot haue eſtate in the tayle, as ſhe myght haue had, yf the gyft in the tayle had be made to the huſband, and to her, in the life of her huſband &c.

¶ Alſo in thys caſe if the huſband & the wyfe haue iſſue, and dye before the gyft in the tayle made vnto hym &c. than ought the feoffee to make eſtate to the yſſue and to the heyres of the father, and mother engēdred, & for defaut of ſuch iſſue &c. the remaynder to the ryght heyres of the huſband &c. And the ſame lawe is in other caſes ſemblable. And if ſuche a feoffour will not make ſuch eſtate whan he is reaſonably required by them that ought to haue

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estate by force of the condicion &c. Then may the feoffour and hys heyres enter &c.

¶Also if a feoffement be made vpon condicion that the feoffee shall enfeoffe manye men, to haue and to holde, to them and to theyr heyres for euer. and all they that ought to haue estate, dye before any estate made vnto them. then ought the feoffee to make the estate to the heyres of hym that surviue of thē to haue and to hold to hym, and the heyres of hym that surviued &c.

¶Also if a feoffement be made vpon condicion to enfeoffe another, or to geue in the taple to another &c. if the feoffee before the performing of the condicion enfeoffe a straunge parson, or make a lease for tearme of lyfe, then may the feoffour or hys heyres entre &c. for thys, that he hath disabled hymselfe to performe the condicion, in so much that he made estate to another &cetera. In such maner it is, yf the feoffee before the condicion performed, set the same land to a straunger for terme of yeres. In this case the feoffour or hys heyres may entre &cetera. for thys that the feoffe hath disabled hymselfe to make estate of the tenementes according vnto that, that was in the tenemēten when estate therof was made vnto him, for if he will make estate according to the condicio &c. thē may the feoffe for terme of yeres, entre & put out him to whō the estate is made &c. & to occupy this during his terme. And many haue sayd, that such a feoffement

be made to a man sole vpon thesame condicion, and before that he hath performed the condicion he taketh a wyfe, then the feoffour or hys heyre may incontinent enter, for thys that if he hath made estate according to the condicion, and after dyed, his wyfe shalbe endowed and may recouer her dower, by a writte of dower &c. And so by takyng of a wyfe, the tenementes be put in another plyte then they wer at the tyme of the feoffment vpon condicion, for thys that no such woman was dowable nor should be endowed by the lawe &c. In thesame maner it is, if the feoffour charge the land by his dede of rent charge before the parfourming of the condicion, or be bound in a statute staple, or statute marchaunt, that in such cases the feoffour and his heyres may entre. Causa qua supra. For whosoeuer cometh to the tenementes by the feoffment of the feffee, then the tenementes must be lyable and be put in execucion by force of the statute afforesayd. But when the feoffour or his heyres for the cases aforesaid. haue entred so as they ought as it semeth &c. Then all such thynges that before such entre may trouble or encombre the tenementes so geuen vpon condicion, as touchyng thesame tenementes be vtterly defeted &c.

¶ Also if a man make a dede of feoffement to another, and in the dede is no condicion &c. And when the feoffour will make to hym liuere of seisin by force of thesame dede, he maketh

keth liuere of ſeiſyn vpon certayn condicions &c. In this caſe nothyng of the tenementes paſſeth by the dede, for thys that the condicio is not comprysed in the dede, and the feoffement is of ſuch force, as if no ſuche dede had be made therof &c.

¶ Also if a feoffement be made vpon ſuch condicion, that the feoffee ſhal alien the land to a man, thys condicion is voyde, for thys, that whan a man is infeoffed in landes or tenementes, he hath power to alien them to ſome parſon by the lawe. For if ſuch condicio ſhold be good, than the condicion putteth hym out of all the power that the lawe geueth, which ſhould be agaynſt reaſon, and for thys, ſuche condicion is voyde. But if the condicion bee ſuch, that the feoffee ſhal not alyen to one ſuch naming hys name, or to any of hys heyres or hys yſſues &c. or ſuch other lyke, the which condicions taketh not away all the power of alienacion of the feoffee &c. than ſuch condicio is good.

¶ Also if tenemētes be geuen in the tayle, vpō ſuch condicion that the tenaunt in the tayle, nor his heyres &c. ſhall not alyen in fee, nor in tayle, nor for term of others lyfe, but for their own lyues. &c. ſuche alyenacion and condicion is good. And the cauſe is for thys that whan he maketh ſuch alienacion and diſcontinuance, he doeth contrary to the entent for whiche the ſtatute of weſtminſter the ſeconde was made, by whiche eſtatute, the eſtates in

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the tayle be ordayned for it is prooued by the wordes compryſed in the ſame eſtatute, that the entēt of the making the ſame eſtatute was ỹ the will of the donour in ſuch caſes ſhould be obſerued. And if hē tenant in the tayle, maketh ſuch diſcontinuance, he doth the contrary to that &c. And alſo in eſtates in the tayle of any tenemēts when the reuercīō of the fee ſiple is in another pſon whā ſuch diſcontinuance is made, then the fee ſimple in the reuercion, or the fee ſymple in the remaynder is diſcontinued, and for to put out that the tenaunt in the taile ſhal do no ſuch thing againſt right ſuch condicīō is good, as it is afore ſayd &c.

¶ Alſo a man may geue land in the tayle vpon ſuch condicion, that if the tenaunt in the tayle or hys heyres alien in fee, or in tayle, or for terme of an others lyfe &c. And alſo that if al the iſſues comming of the tenaunt in the tayle, be dead without iſſue, that then it ſhalbe leful to the donour & to his heyres, to ēter &c. And by ſuch way the right of ỹ tayle may be ſaued aft ſuch diſcōtinuance to the iſſue in the tayle if ther be any, ſo ỹ by way of entre of ỹ donour or of his heires the tayle ſhall not be defeted by ſuch condic̄, & yet if the tenant in ỹ tayle in thys caſe, or his heires make any diſcontinuance &c. he in the reuercīō or his heyres after this ỹ the tayle is determined for defaute of yſſue &c may enter into the lande by force of the ſame condicion, and ſhall not be driuen to ſue a wryte of Formedon in the

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cion.

¶ Also yf a man may not plede in any accion that estate was made in fee, in the tayle, or for terme of life vpon condicion, but if he vouch a record therof, or shew a writing vnder seale prouing thesame condiciō. for it is a common erudicion & learning, ẏ a man by pleding shal not defete any estate of franktenemēt by force of any such condiciō, but if he shew the profe of such condiciō in wrytyng &c. except it be in some especial cause, but of chatels reals as of a lease made for terme of yeres, or of grantes of wordes made by wardens in chiualry, & of such other. &c. A man may plede that such gyftes or grantes wer made vpon condicion &c. without shewing of any wryting of condicion and in thesame maner a man may dooe of gyftes and grantes of chatels parsonels and of contractes parsonels &c.

¶ Also though that a manne in some accyon maye not plede an accion that toucheth and concerneth franke tenement wythoute shewynge of wrytinge therof, as it is aforesayde, yet a manne maye bee holpen vpon suche condycyon by the verdyte of twelue menne taken at large in Assyse of nouell dysseysyn, or in some other accion where the iustices wyll take the verdite of the twelue iurrours at large. As put the case that a man seysed of certayn lande in fee, letteth thesame lād for term of life, without dede vpon cōdiciō to yeld to the lessour a certayne rent, and for

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defaute of payement a reentre. &c. by force of which, the lessour is seysed as of frankstenement and after the rent is behynd, by which the lessour entreth into the lande, and after the lesse arrapneth an allyse of Nouel disseisyn of the land agaynst the lessour the whiche pleadeth that he doth no wrong, ne no disseisyn, and vpon thys the allyse is taken.

¶ In thys case the recognitours of the allyse may say and yeld to the iustices theyr verdit at large vpon all the matter, as to saye that the defendaunt was seysed, and so seysed, let the same land to the playntif for terme of his life, to yeld to the lessour such an annuel rent payable at such a feast and vpon such condiction ꝑ if the rent be behynd at any suche feast that it ought to be payde, that then it shalbe leful to the lessour to entre &c. by force of which lease the playntif was seysed in hys demesne, as of frankstenement, and after the rente was behynd at such a fest in such a yere &c. for which the lessour entred into the land vpon the possession of the lease, and payeth the distression of the iustices if thys be a disseysin done to the playntif or not. And than for thys, that it appeareth to the iustices, that thys was no disseisyn doone vnto the playntif. In so muche that the entree of the lessour was lawful vpō hym, the iustices ought to geue iudgement, ꝑ the playntif shall take nothyng by hys writte of allyse. And so in such case the lessour shalbe holpen, and yet no wryting was neuer made

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of the condicion, for as well as the iurrours maye haue knoweledge of the condicion that was declared and reherased vpon the lessee. In the same maner is of feoffement in fee, or in gyfte in the tayle vpon condicion, though neuer wryting wer made therof &c. And as it is sayd of a verdite at large in assise &c.

¶ In thys same maner it is of a wrytte of entre founded vpon disseisyn, and in all other actions where the iustices will take a verdite at large there where the verdite at large maketh the nature of the matter put in the issue.

¶ Also in suche where the enquest may saye theyr verdite at large, if they will take vpon them the knoweledge of the lawe vpon the matter, they may say theyr verdit general as it is put in theyr charge, as in the case afore-sayd they may well say that the iessour dysseised not the lessee if they wyll &c.

¶ Also in the same case, yf the case wer suche, that after thys that the iessour had entred for defaute of payment &c. that the lessee had entred vpon the iessour, and hym disseised. In thys case if the iessour arrayneth an assyse agaynst the lessee, the lessee may barre hym of hys assyse, for he maye plede agaynste hym in barre, how the iessour that is playntyfe made a leale to the defendant for terme of lyfe, sauyng the reuercion of the playntif, the which is a good plee in barre, inso much ỹ he knowledgeth the reuercion to be to the playntife, & in thys case hath no matter to helpe hym, but

the con

the condicion made vpō the lease, and that he may not pledge, for that he hath no wrytyng, and in so muche that he may not aunswere to the bar, he shalbe barred. And so in thys case ye may see that a man is seised & he shal haue no assyse. And yet if the lessee be playntif, & the lessour defendant, he shal barre the lesse by verdit of the assyse. But in thys case where the lessee is defendaunt, if he will not pleade the sayd plee in barre, but pleade no wrong nor dysseisyn that the lessour shall recouer by assyse &c. Causa qua supra.

¶ Also because such condicions be most commonly put & specified in dedes endented some litle thing shalbe sayd here to the my sonne of indentures & of a dede poll cōteining condicions. And it is to wete ẏ if the indēture be by pertite or tripartie or quatriperte, al the parties and the indenture be but one dede in the law, & euery partie of the indēture is of himself of as great force & effect, as al the parties together. And the making of indētures is in two maners. One is to make thē in the third parson, another maner is to make thē in the fyrst parson. The making in the third ꝑson, is as in such fourme. Thys indēture made betwene A. of. B. of the one part, & C. of. D. of the other part. witnesseth that the foresayd A of. B. hath geuen & graūted & by this present dede indented, hath confyrmed to the foresayd C. of D. such lād to haue &c. vpon the condiciō &c. In witnes whereof, the ꝑties be foresayd inter-

interchãgeably haue put to their seales, or els thus. In witnes wherof, to one pte of thys indẽture remayning w̃ the sayde C. of D. the forsayd A. of B. hath put to his seale, & to ỹ other pt of the sayd indẽture remaining with the sayd A. of B. the said C. of D. hath put to his seale geuẽ &c. Such indẽtures is called indenture made in ỹ third pson for this that the verbes be in the third pson & such forme the indenture is the more sure making, for this ỹ it is more cõmonly vsed, the making of indentures in the fyrst parson is in such forme.

¶ To al true christen people to whom thys present writing indẽted shal come A. of B. greting in our lord euerlasting, knowe ye me to haue geuẽ & graũted, & by this my present dede indented, to haue confyrmed to C. of D. suche land &c. Or els thus, know al mẽ that be present, & thẽ that be to cõe that I A. of B. haue geuen & granted & by thys my present dede indẽted haue cõfyrmed to C. of D. such land &c. to haue &c. vpon the condicion folowing. In witnes wherof, alwel I the sayd A. of B. as the forsayd C. of D. to these indentures interchangeably haue put to our seales, or els thus. In witnes wherof to one part of thys indenture I haue put to my seale, and to the other part of the same indenture the forsayde C. of D. hath put to hys seale. &c.

¶ And it semeth that such an indenture made in the fyrst parsone, is as good in the law as the indenture made in the thyrd parsone,

when

when both parties haue therto put their seales, for in the indenture made in the thirde parsone or in the first parsone, if mencyon be made that the grauntour hath sette hys seale onely, and not the graunte, then is the indenture onely the dede of the grauntoure. But where a mencion is made that the grauntee hath set hys seale to the indenture &c. then is the indenture as well the dede of the grauntour as the dede of the grauntee, and thus it is the dede of both, and also euery party of ỹ indenture is the dede of both parties in such case. &c.

¶ Also yf estate be made by indenture to a man for terme of hys lyfe, the remaynder to an other in fee vpon condicions &c. and if the tenant for terme of lyfe, hath set hys seale to ỹ partie of the indenture, and after dieth and he in the remaynder &c. entreth by force of hys remaynder. In thys case he is holden to performe all the condicions comprysed within the indenture as the tenant for terme of lyfe ought to dooe in hys lyfe and yet he in the remaynder neuer ceased any parcel of the indenture but the cause is that in so much that he entreth and agreeth to haue the land by force of the indenture he is holden to parfourme ỹ condicion within the indẽture if he will haue the lande &c.

¶ Also if a feoffement be made by dede Poll vpon condicion &c. And for thys that the condicion is not performed, the feffour entreth and

and happeth the possession of the dede polle if the lesse bryng an action of that enter against the feoffour it hath bene questioned yf the lessour may plede the condicion. &c. by the deed poll agaynst the feoffe and some haue sayde, nay, in so muche that it semeth vnto thē that a deed poll, and the property of the same dede appertayneth to hym to whom the dede is made and not to him that made the dede. And in so much that suche a dede appertaineth not to the feoffour it semeth to them that he maye not plede thys dede. &c. And other haue sayde the contrary and haue shewed diuers causes. One is yf the case be such that in the actiō betwene them yf the feoffe plede thesame dede, and shewe this to the court. In this case in so much that the dede is in the court the feoffor may shew to the court how in the dede by diuers condicions to be parfourmed of the parte of the feoffe, and for this that they be not parfourmed he entred &c. and therto he shalbe receiued by the same reason whan the feoffor hath the dede in hand and sheweth it to the court he shalbe wel receiued to plede of this. &c. And namely whan the feoffor is preup to the dede, for he ought to be preup to the dede, whan he made the dede.

Also yf twoo menne make or doe a Trespasse to another, the whiche releaseth to one of them by hys dede, all actions Personels. &c. Notwithstandyng he suyth an action of Trespas agaynst the other, the defendaunt

may well shewe that the Trespas was done by hym and another his felow, and that the plaintif by the dede that he sheweth for the release to his felowe, all accions parsonels and yet such dede apperteyneth to his felowe and not vnto hym, but for this that he maye haue aduauntage by the dede, if he may shewe the dede to the court he may well plede therfore by the same reason in the other case whā the feoffour ought to haue aduauntage by the condicion comprised with the deed pol.

¶ Also yf the feoffe gaue or graunted the deed pol to the feoffor, suche graunt shall bee good, and than the dede, and the propertye of the dede, appertayneth to the feoffour. And whan the feoffour hath the dede in hand, and pledeth it to the court, it shall bee the more vnderstand that he came to the dede by a law full meane than by a torcions meane and so it semeth that they maye well plede such a deed poll, that comprehendeth condicion. &c. yf he haue the dede in hande &c. Ideo semper quere dubijs, quia per raciones peruenitur ad legittimam rationem.

¶ Estates that menne haue vpon condicion in the law be suche estates that haue a condicion in the law annexed to them, though it be not specified in writing, so as a man graunte by hys dede in another the offyce of a parke-shyppe of a parke to haue and to occupye the same offyce for terme of his lyfe, the estate that he hath in the offyce, is vpon condicion

in the lawe, that is to saye, that the parker, well and truelye shall kepe the parke, and do thys that to hys office appertayneth to dooe, or otherwyse that it shall bee lawfull to the grauntour and to hys heyres to put hym out, and to graunt that to another yf he will. &c.
And suche condicion as is vnderstande by the lawe to bee annexed to some thing is as stronge as yf the condicion were set or put in writing. In the same maner it is of grauntes of offices of stewardes, constables, bedies, bailyfes, and other officers, but yf suche office bee graunted to a man to haue and to occupy by hym or by his deputie, than if the office be occupyed by hym or by his deputye as it ought by the lawe to be occupyed, this sufficeth for hym, or els the grauntour or his heires may put hym out as it is afore sayde.

¶ Also estates of landes or tenementes may be vpon condicion in the lawe, though yt vpon the estate made, there was no rehersall made of the condicions, as put the case that a lese be made to the husbād & his wife, to haue & to hold to thē during the couerture betwen thē in this case thei haue estate for terme of their two liues vpon condicion in the law. yt is to say yf one of them dye, or if diuorce bee made betwene thē, yt than it shalbe lawful to the lesor & his heires to ēter. &c & that they haue estate for tēn of their .ii. liues it is proued thus. Euery man that hath estate or franktenemēt in any lādes or tenemētes, eyther he hath estate

in fee, or in fee tayle, or for terme of lyfe or for terme of anothers lyfe, and by ſuch leaſe, they haue franketenement. But thei haue not by that graunt fe nor tayle, nor for terme of anothers lyfe. Ergo they haue eſtate for terme of theyr two lyues, but this is vpon condicio in the lawe in forme aforeſaide. And in thys caſe yf they make waſt the leſſour ſhall haue agaynſt them a writ of waſt, ſuppoſing by his writ. Quod tenent ad terminum vite. &c. but in his plee, he ſhall declare howe and in what maner the leaſe was made, in the ſame maner it is yf an abbot make a leaſe to a mā to haue and to holde durynge the tyme that the leſſor is abbot. In thys caſe the leſſe hath eſtate for terme of hys owne lyfe, but this is vpon condicion in law that is to ſay that yf the abbot dye, or reſygne to be depoſed, it ſhalbe lawfull to his ſucceſſours to enter. &c. Alſo a mā may ſee in the boke of aſſiſe. Anno. xxxviii. E. iii. a plee of aſſyſe in this forme that enſueth aſſiſe of nouell diſſeiſyn was ſometyme brought agaynſt one. A. that pleded to the aſſyſe, & was found by verdyt that the anceſter of the plaintyf deuiſed the tenementes to be ſolde by the defendant that was his executor to make diſtribucion of the money for hys ſoule, & it was found that a man after the death of the teſtatour rendered hym certayn ſume of money for the tenementes but not to the value and that the executour after helde the tenementes in his owne hande by two yere to the intent to

haue

haue solde the tenementes more derer to sum other and it was founde that he had all thys whyle after taken the profytes of the tenementes to his owne vse, without any thyng doyng for the soule of the dead. Nombzay the executour in such case is holden by the lawe to make the sale as soone as he may after the death of the testatour and it is founde that he refused to make the sale and so the defaut was in him, and also by force of the deuyse he was holden to haue put all the profytes of the sayd tenementes to the deathes vse, and it is found that he hath taken them to his owne vse, and so another defaut is in hym wherfore it was iudged that the playntyf should recouer .&c. And so it appereth by the said iudgement that by force of the sayd deuyse the executour had none estate nor power in the tenementes but vpon condicion in the law. &c. And in such cases it nedeth not to haue shewed any dede reherslyng the condicions. &c. Ex paucis dictis intendere pluruma possis. More shalbe sayde of condicions in the chapiter of discentes that taketh awaye enter and in the chapiter of releses and in the chapiter of discontinuaunce.

Dyscentes. Cap. bi.

Discentes that take away entres be in two maners that is to say where the dyscent is in fee or in fee tayle. Discent in fee that taketh away enter is if a man seased of certain landes or tenementes is disseased and the disseysour

hath yssue and dyeth of suche estate. But now the tenementes dyscend to the yssue of the disseasour by course of the lawe as heyre vnto hym.

¶ And for this that the lawe putteth the landes or tenementes vpon the issue of the disseasour that by force of the discent, so the issue commeth to the tenementes by course of the law and not by his owne dede the enter of ẏ disseysi is taken away and is therof put to his wryt of enter vpon disseysyn against the heyre of the disseasour to recouer the lande.

¶ Dyscent in the tayle that taketh awaye enter is yf a man be disseased and the disseasor geueth the same lande to another in the tayle, and the tenaunt in the tayle hath issue and dyeth seased of such estate and the issue ẽtreth in this case the enter of the dysseisi, is takẽ away, and he is put to sue, agaynste the yssue of the tenaunt in the tayl a wrytte of enter vpon disseisin .&c.

¶ And note well that in such dyscẽtz that take away enters it behoueth that a mã dye seased in his demesne, as in fee tayle for dying seased for terme of lyfe or for terme of anothers lyfe shall neuer take awaye the enter. &c.

¶ Also a dyscent of reuercion or of remaynder shal neuer take away enter. &c. so that such cases that take away entrees by force of discentes it behoueth that he ẏ dieth seased haue fe & frankteneñt at the tyme of hys dying or

els such dyscent taketh not away enter.

¶ Also as it is sayd of discentes that discend to the issue of hym that dyeth seased.&c. the same law is wher thei haue none issue, but ye tenementes dyscende to the brother or to the sister or to the vncle, or to some other cosin of his that dyeth seased.&c.

¶ Also if there be lord and tenant and the tenant be disseased, and the disseasour alieneth to another in fe & the alien dyeth without heire, & the lord entreth as in his eschete. In thys case the disseysi maye enter vpon the lorde for this that the lord commeth not to the land by dyscent but by eschete.

¶ Also if a man seased of certayn lande in fee or in fe taile vpon condicion to yeld certayne rent or vpō other condic̄ though that such tenant seased in fe or in fe taile die seased, yet yf the condic̄ be brokē in their life or after theyr decese.&c. this taketh not awai the enter of the feoffor, nor of the donor or of theyr heyres for this that the tenancy is charged with the condicion & the estate of the tenancy is condicionel in whose handes so euer the tenācye shall come.&c.

¶ Also & if such a ten̄t vpon condic̄ be disseased & the disseasor die therof seased, & the lād descēdeth to the heir of the disseasor, now the ent̄ of the tenant vpō condic̄ that was disseased, is takē away but if the condic̄ be brokē.&c. thā may the feoffor or the donor that made the estate or their heires entre.&c. causa qua supra,

¶ Also yf a dysseysour dye seased, & his heires enter. &c. the which endoweth the wyfe of the dysseasour of the thyrde part of the tenements in this case as to the thyrde part that is assigned to the wyfe in dower, incontinent anone after that the wyfe entreth and hath the possession of the same thyrde part the dissesy may lawfully enter vpon the possession of the wife in the same thyrde part. And the cause is for this that whan the wyfe hath her dower, she shall bee adiudged rather immediately by her husband and not by the heyre, and so as to the franktenement of the same thyrd part, the discent is defeted, and so ye may see howe before the dowement the disseisi myght not enter in any part. &c. and after the dowement he may enter vpon the wyfe, and yet he may not enter vpon the other two partyes ỹ the heyre of the dysseasour hath by discent. &c.

¶ Also yf a woman be seased of lande in fee, wherof I haue ryght and tytle to enter, if the woman take an husband and haue issue bewene them, and after the wife dyeth seased, and after that the husband dyeth, and the issue entreth. &c. In this case I may enter vpō the possession of the issue. for this that the issue cometh not to the tenementes immedyatlye by discent after the death of his mother.

¶ Also yf a dysseysour enfeoffe hys father and the father entreth and dieth of such estate seased. by whiche the tenementes descende to the dysseasour, as to the sonne and heyre. &c.

In

In this case the disseisi may well enter vpon the dysseasour notwithstandyng the discent, for this that as to the dysseasyn the dysseasour shall be adiudged in but as the disseasour, notwithstandyng the discent.

¶ Also yf a man seased of certayn landes in his demeane as of fee, and hath issue .ii. sõnes and dyeth, and the ponger sonne entreth by abatement in the land the which hath issue, and of this dyeth seased, and the tenementes discende to the issue, and the issue entreth into the land, in this case, the elder sonne or his heires may enter by the lawe vpon the yssue of the ponger sonne, notwithstandyng the discente, for thys that whan the ponger sonne abated in the lande after the death of hys father before any enter of the elder, the law intẽdeth that he entred in the clempng as heyre vnto hys father, and forthys that the elder brother claymeth by the same tytle, that is to saye, as heyre vnto hys father, he and his heyres, may enter vpon the issue of the ponger brother not withstandyng the discent. &c. for thys ỹ they clayme by one selfe tytle and in the same maner it shall bee yf there bee manye discentes from one issue of the ponger sonne. &c. But in suche case yf the father were seased of certayne landes in fee, and hath yssue .ii. sonnes and dyeth, and the elder sonne entreth, and is seased et cetera. And after the younger brother dysseaseth hym, by whyche dysseysyn he is seasd of fee, and hath yssue and of suche

estate

estate dyeth seased, thā the elder brother may not enter, but is put to hys writ of entre vpō disseasin for to recouer the lād. And the cause is for this, that the younger brother commeth to the tenementes by a wronge disseisin made vnto his elder brother. And for that wronge, the law may not entend that he claym as heir to his father no more than a straunge parson that had disseased the elder brother that neuer had any title. &c. And so may ye se the diuersitie where the yonger brother entreth after the death of his father, before any entry made by the elder brother in such case. &c. And wher the elder brother entreth after the death of his father, and is disseased by the yonger brother. &c. In the same maner yf a man seased of certain land in fe hath issue two doughters, & dyeth and the elder doughter entreth in the lād claymyng all the lande to her and therof only taketh the profites and hath issue and dyeth seased by which her issue entreth whiche issue hath issue and dyeth seased and the seconde issue entreth. &c. Et sic vltra, yet the younger doughter and her issue as to the halfe maye enter vpon euery issue of the elder doughter, notwithstandyng suche dyscent for this that they clayme by one seuerall title. &c. But in such case yf both two sisters come into the lande to enter after the death of their father, and thereof were seased and after the elder syster therof dysseased, the younger syster of that, that to her belongeth, and thereof is

seased

sealed in fee, and hath issue, and of suche estate dyeth sealed, by whiche the tenementes dyscende to the yssue of the elder syster than the ponger syster or her heyres maye not ẽter, &c. causa qua supra.

¶ Also yf a manne sealed of certaine lande hath yssue two sonnes, and the elder brother is bastarde, and the younger brother mulier, & the father dyeth and the bastard entreth and claymeth as heyre vnto hys father, and occuppyeth the land all hys lyfe without any entre made vpon hym by the mulier and the bastarde hath yssue and dyeth of suche estate sessed in fee. and the lande descendeth to his issue and hys issue entreth &c. in this case the mulier is without remedy for he may not ent nor he shall haue no action for to recouer the lãd for this that it is an auncyent law in such case vsed, but it hath bene an oppinion of some mẽ that shall bee vnderstande where the father hath a sonne a bastard by a woman and after he weddeth the same woman and after the spousayle he hath yssue by the same woman a sonne or a daughter mulier, and the father dyeth et cetera. If suche a bastarde enter et cetera. And hath issue, and dyeth seased. &c Than shall the yssue of suche a bastarde haue the lande clerely to hym as it is afore sayde. &c And not anye other bastarde borne of the mother that was not espoused to his father, and this is a good and reasonable oppynyon. For suche a bastarde borne beefore the espousels

espousels solempnyzed betwene hys father & hys mother, by the lawe of holy church is mu lyer, though that by the lawe of the lande, he is a bastarde borne, and so he hath colour of enter as heyre to his father, for thys that he is by one lawe mulier, that is to say, by the lawe of holy churche. But otherwyse it is of a bastarde that hath no maner of colour to enter as heyre, in so muche that he maye not in no lawe be sayd mulyer. &c. for suche a bastarde is sayde. Quasi nullius filius. But in suche case aforesayde where the bastard entreth after the death of his father, and the mulier putteth hi out, and after the bastarde dysseaseth the mulier, and hath issue, and dieth seased, and the issue entreth, then the mulier may haue a writte of entre vpon dysseisin against the yssue of the bastarde, and recouer the lande. &c. And so maye ye see the diuersitie where suche a bastarde cõtynueth hys possession all hys tyme without any interruption, and where the mulier entreth and interrupteth the possession of suche a bastarde.

¶ Also yf a chylde within age haue tytle & cause to enter into any landes or tenemẽtz vpõ another ỹ is seased in fe or in fe tail of ỹ same lãdes & tenemẽtz, if such a mã ỹ is so seased dye of such estate, so seased & the tenemẽtz discend to his issue during the time ỹ the child is within age. such discent shal not tol the entre of ỹ chyld but he may enter vpon the issue ỹ is in by discent. &c. for this that no laches shall bee

adiudged

adiudged in a chylde wythin age in suche case &c.

¶ Also yf the husbande and hys wyfe, as in ryght of the wyfe haue tytle and ryght to enter in the tenementes that another hath in fee or in fee tayle, and such a tenaunt dieth seased. &c. In such case the enter of the husband is taken away vpon the heyre that is by discēt But yf the husbande dye, then the wyfe maye well enter vpon the issue by dyscent, for thys that the laches of the housebande shall not turne to the wyfe and to her heyre in preiudicē nor in damage, in such case but that the wyfe and her heyres may well enter, where suche dyscent is during the couuerture. &c.

¶ Also yf a man that is not of whole mynd that is to say in latin. Qui non est compos mētis, hath cause to enter in any such tenemētes if such discent vtē. be had in hys lyfe durig the tyme ẏ he was out of his mynde, and after die his heyres may wel enter vpon hym that is in by discent. And in this maye ye see a case ẏ the heyre may enter, and yet hys ancester that had the same tytle may not enter, for he ẏ was out of his mynde at the tyme of suche discent yf he wyl enter after such a dyscent, yf accion vpō this be sued against hī, he hath nothyng for hī to plede or to help hī, but say ẏ he was out of mind at the time of such discēt. &c. And he shal not be receiued to say this, for this that no mā of ful age shalbe receued in any ple by the law to disalt or dissable his own ꝑson. But the

heyre

heyre may wel dissable the parson of his auncestor for aduantage of the heyre in such case, for this that no laches may be adiudged by the law in him that hath no discrecio in such case And if such a man out of his minde make a feoffement.&c. he may not enter ne haue a writ called. Dum non fuit compos mentis.&c. causa qua supra, But after hys death, his heyre may wel enter or haue the same writ. Dum non fuit compos mentis at hys election.&c.

¶ Also yf I be dissealed by a chyld within age, alyeneth to another in fee, and the alien dieth seased, and the tenementes dyscende to hys heyre and the chylde beyng within age, myne enter is taken away. But yf the childe within age enter vpon the heyre that is in by dyscent as he well may, for thys that the discent was durying hys nonage, than I may wel enter vpon the dissealy, for thys that by hys entre he hath defeted and adnulled the discent. And in the same maner it is where I am seased, and the dyssealour maketh a feoffement in fee vpon condicion.&c. And the feoffe dyeth of such estate seased.&c. I maye not enter vpon the heyre of the feoffe. But yf the condicion be broken so that by suche cause the feoffour entreth vpon the heyre, now may I wel enter, for this that when the feoffour or hys heyres entre for the condicion broken, the dyscent is vtterly defeted.

¶ Also yf I be dissealed, and the dissealour hath yssue and entreth into religion, by force

of

of whyche the landes descendeth to his issue, in thys case I may well entre vpon the issue, and yet there was a discent. But for this that suche discent commeth to the issue by the fathers dede, that is to saye, for thys that he entred into religion. &c. and the discent cometh to hym by the dede of God, that is to saye by death. &c. myne entre is congeable, and lawfull, for yf I arrayne assyse of Nouel disseysyn agaynste my disseasour, though that he after enter into religion, thys shall not abate my writte. But my writ, thys notwithstanding shall abyde in hys force and strength, and my recouere agaynste hym shall bee good by the same reason, the discent that came to his issue by hys owne dede may not put me fro myne entre. &c.

¶ Also yf I lette to a manne certain landes for terme of twenty yeres, and another disseaseth me, and putteth out the terme, and dieth seased, and the tenementes discend vpon hys heyre, I may not enter, and yet the lesse for terme of yeres may well enter for thys that by hys entre he putteth not out the heyre that is in by discent fro the franketenemente that vnto hym discended. But onely to haue tenementes for terme of yeres, that whiche is no expulsyng of the franktenement of the heyre þ is in by discent. But otherwyse it is where my tenant to terme of life, is disseased. &c. causa qua supra. &c.

¶ Also it is sayde that yf a manne seased

of

of tenementes in fee by occupacion in time of warre, and dyeth therof seased in time of war and the tenementes descend to hys heyr, such dyscent putteth out no manne of his enter. And of this a man may se a ple in a wrytt de ayel. An. vii. E. ii.

¶ Also no dying seased wher all the tenementes commeth to another by succession shall take away the entre of any parson &c. For of prelates, abbots, pryours, deanes, or parsons, of churches &c. though that there were twentie successions, this putteth no man from hys entre. &c. More shalbe sayo of discentes in the chapiter of continual clayme. &c.

¶ Contynuall clayme. Cap. vii.

¶ Ontinuall clayme is, where a menne hath ryght. and tytle to enter in anye landes or tenementes wherof another is seased in fee or in fee tayle, yf he that hath tytle to enter make contynuall clayme to the landes, and tenementes before the dying seased of him, that holdeth the tenementes. Than though suche a tenaunt dye thereof seased and the landes and tenementes dyscende to hys heyre, yet may he that hath made suche clayme or hys heyres enter into the landes and tenementes descended, because of the contynual clayme made. Not wythstandyng suche dyscent. As in case a man bee dysseased, and the dysseysy maketh contynuall clayme to the tenemētes

in the

in the lyfe of the disseisour though the disseysou dye seysed in fee, and the land discendeth vnto hys heyres, yet may the disseisy entre vpon the possession of the heyre, notwithstandyng such discente.

¶ In the same maner it is, if tenant for terme of lyfe alien in fee, he in the reuercion, or he in the remaindre may entre vpō the alien. And if such alyen seysed of such estate without continual clayme made to the tenementes before the dying seysed of the alyene and the tenementes because of the dying seysed of the alyen descend vnto the heyre of the alyen. The̅ may not he in the reuercion, nor he in the remayndre entre. But if he in the reuercion, or he in the remayndre that hath cause to entre vpon the alyen made continuall clayme to the tenementes before the dying seysed of ỹ alyen, then such a manne may entre after the death of the alyen as well as he might in his lyfe. &c.

¶ Also yf landes be lette vnto a man for term of hys lyfe, the remayndre vnto another for terme of lyfe, the remayndre vnto the thyrde in fee, yf the tenaunt for terme of lyfe alyen to another in fee, and he in the remayndre for terme of lyfe maketh continuall clayme vnto the land before the dying seysed of the alyen, and after the alyen dyeth seysed. &c. and after he in the remayndre for terme of lyfe dyeth before any entre made by hym.

¶ In thys case he in the remayndre in fee

may entre vpon the heyre of the alyene, be-
cause of continuall clayme made by him that
made the remaynder for terme of lyfe, for this
that such ryght that he hath to enter shal goe
and remayne to hym in the remaynder after
hym, in so muche that he in the remaynder in
fee, maye not enter vpon the alyene in fee,
duryng the lyfe of hym in the remaynder
for terme of lyfe, and because he myght not
make continuall clayme. But when he hadde
tytle to enter. But it is to see to thee my child
how & in what maner such continuall clayme
shalbe made, and to learne thys. Three thyn-
ges there be to vnderstand. ¶ The fyrst thing
is, yf a manne haue cause to enter in any lan-
des or tenementes in dyuers townes with-
in one shyre yf he entre in any parcell of the
landes or tenementes that be in one town in
the name of the landes or tenementes that
been in one towne to whiche he hath ryght to
enter within all the townes in the same shyre,
by such entre he hath as good possession and
seysyn of such landes or tenementes wherof
he hath tytle to entre as yf he had entred in-
to euery parcell, and thys semeth great reaſō,
for yf a manne willeth sette another without
dede of certayn landes or tenementes that he
hath in many townes within one shyre, and
he will delyuer seysyn to the feoffee of par-
cell of the tenementes within one towne in
the name of al the landes & tenementes that
he hath in the same towne, and in all the o-

thers

ther townes &c. all the sayd tenementes &c. shall passe by force of the sayd liuerey of seysin to hym to whome suche feoffement in such maner is made. And yet he to whom such liuerey of seysin is made, hath no ryghte to all the landes and tenementes in all the townes but because of the liuerey of seysyn made of parcel of the landes or tenemētes in one town A multo fortiori. It semeth good reason, that whan a man hath title to entre into landes or tenementes in diuers townes within one shyre, before any entre by hym made, ỹ by the entre of hym made in parcel of the tenemētes in one town in the name of all the landes & tenemtz to the whiche he hath tytle to entre within the same shyre, thys is a seysyn of all in hym, & by such entre he hath possessiō & seisin in dede, as yf he had entred into euery parcel &c.

¶ The second is to vnderstand, that if a man haue title to entre into any landes or tenemētes, if he dare not entre in the same landes or tenemtz nor in any parcel therof for dout of beatyng, or for doute of maymyng, or for doute of both, yf he goe & approch as nygh the tenemtz as he dare, for such doute, & clayme by wordes the tenementes to be hys incontinent by such clayme, he hath a possessyō & seysyn in the tenementes as well as yf he had entred in dede thoughe he hadde neuer possession or seysyn of the same landes or tenementes, before the sayde clayme. And that the lawe is such it is well prooued by a plee of an Assyse in the

booke of assyse. Anno. xxxviii. E. iii. The tenure of which ensueth in thys fourme.

¶ In the countie of Dorset before thesame Iustices it was founden by verdit of Assyse, that the pleyntif which had ryght by discent of heritage to haue the tenementes pute in playnt at the tyme of the death of hys auncestre which was dwelling in the town where the tenementes wer, and by woord clayneth the tenementes among hys neyghbours, but for doubt of death he durst not approche vnto the tenementes, but bryngeth assyse, and vpon the matter founde, it was awarded that he should recouer.

¶ The thyrd thyng is to vnderstande within what tyme the clayme that is sayd continual clayme shal serue, and helpe hym that maketh the clayme and hys heyre. And as to this it is to wete that he that hath tytle to enter whā he will make hys clayme, and if he dare approche vnto the land. Than it behoueth hym to goe vnto the land, or to parcel of it, & make hys clayme. And yf he dare not approche vnto the land for dreade of beatyng, maymyng, or death, than it behoueth hym to goe. and to approche as nigh as he dare toward the land or parcel therof, and make his claime. And if his aduersary that occupyeth the land, dye seysed in fee or in fee tayle within a yere and a daye after such clayme made, by whiche the tenementes discend vnto his sonne as heyre vnto hym, yet may he that made the clayme enter

vpon

vpon the poſſeſſion of the heyres. But in thys caſe after the yere & the day that ſuch clayme was made if none other clayin be made, if the father then dye ſeiſed, the morowe after the yere and the day, or at another day after. &c. than may not he that made the clayme enter. And therfore if he that made the clayme will be ſure alway that hys entre ſhall not be taken awaye by ſuche diſcent, it behoueth hym that within the yere and the day after the firſt clayme, to make another clayme in the fourme aforeſayd. And within the yere and the day after the ſecond claym to make the thyrd clayme in theſame maner, and within the yere & the day after the thyrd clayme, to make another clayme and ſo forth, that is to ſay, to make an other clayme within euery yere and day next after euerye clayme made, durynge the lyfe of hys aduerſary, and than at what tyme that hys aduerſary dye, his entre ſhal not be taken away by no ſuch diſcēt. And ſuch clayme made in ſuch maner is moſt commonly taken, and called continual clayme of him that made the clayme. But yet in caſe aforeſayd where his aduerſary dyeth within the yere and the daye next after the fyrſt clayme, thys is in the law a continual clayme, inſo much that his aduerſary dyed within the yere and the daye after theſame clayme for it is no nede for hym that made the clayme to make anye other clayme, but at that tyme that he within theſame yere and the day &c.

¶ Also if his aduersary be disseised within the yere & a day after the claym, and the disseisour dyeth therof seised within the yere & the day &c. Thys dying seised shall not hurt him that made the claym, but that he may enter &c. & for whosoeuer he be that dyeth seised within the yere & the day after such clayn, that shall not hurt him that made the clayn, but that he may enter though there wer many dyinges seised & many discentes within the yere & the day &c.

¶ Also if a man be disseysed, and the dysseysour dyeseyed within the yere and the day next after the disseisin done, wherby the tenementes discende to his heyre, in thys case the entre of the disseisie is take away for the yere and the day that shoulde helpe the disseisie in such case &c. shall not be taken from the tyme of the tytle of entre growen vnto hym, but onelye from the tyme of the clayme by hym made in tyme aforeclayd. And for that cause it shalbe good for such a disseisie for to make his clayn &c. in as shorte tyme as he may after the disseisin &c.

¶ Also if such a disseisour occupy the land by. xl. yeres without any clayn made by the dysseisy &c. & the disseisy by little space before the death of the disseisour make clain in ye forme aforeclayd, if so it fortune that within a yere and a day after such clayme the disseisour dyeseysed &c. the entre of the disseisie is congeable, and for this it shalbe good for such a man that made no clayme that hath tytle to enter

&c. when

ſe. when he heareth that hys aduerſarye ipeth liche to make hys clayme. ſe.

¶ Alſo as it is ſayd in the caſes put before where a man hath tytle to entre becauſe of a diſſeiſin ſe. The ſame law is where a manne hath ryght to enter becauſe of the tytle ſe.

¶ Alſo in thys ſaid preſidentes maype know my child by .ii. thinges. One is where a man hath title to entre vpon a tenant in tayle, if he make any ſuch clayme vnto the lād ſe. Thē is the ſtate of the tayle defeted, for that clayme is as an entre made by hym, and is of the ſame effect in ỹ law as he were vpon the ſame tenementes, and had entred in the ſame tenementes as is afore ſayd. And then when the tenant in tayle immediatly after ſuch clayme continueth hys occupacion in the tenementes this is a diſſeiſin made of the ſame tenementes vnto him that made the clayme. Et ſic p cōſequens, the tenant then hath fee ſimple ſe.

¶ The ſecōd thing is, that as oft as he ỹ hath right to enter maketh ſuch clayme. & this notwithſtāding hys aduerſary cōtayneth his occupacīō ſe. ſo oft the aduerſary doth wrong & diſſeiſin to him that made the claime. And by this caſe ſo often may he that made the ſame clayme for euery ſuch wrong & diſſeiſin made vnto hym, haue a writ of treſpas. Quare clauſum ſuum fregit ſe. to recouer hys damages ſe. Or he may haue a writte vpon the ſtatute of kyng Richard the ſecond made the fyfth yere of hys raygne, ſuppoſyng by hys writte

M.iiii. that

that his aduersary hath entred into the lādes or tenementes of hym that made the clayme where hys entre was not geuen by the law &c. and by such accion he shall recouer hys damages &c. And if the case be such that the aduersary occupy the tenementes with force, & armes, or with a multitude of people at the tyme of such clayme. &c. Than may he that made the clayme for euery such tyme haue a writ of forcible entre and recouer hys trebis damages.

¶ Also here it is to see yf the seruaunt of a mā that hath tytle of entre may by the commaundement of hys maister, make continual clayme for hys master in his name, and it semeth that in some cases he may doe this, for if he by hys commaundement come to any parcell of the land, and there maketh claim &c. In the name of his maister, thys clayme is good for his master, for thys that he hath done all that that it behoued his maister to doe in such case &c.

¶ Also if a maister say vnto hys seruaunt that he dare not goe vnto the land nor to any parcel of the land for to make his clayme &c. & dare not approche more nygh vnto the sayd land, saue to such a place called Dale, and commaūdeth his seruaunt to goe to the same place of Dale, and therto make a clayme for hym &c. if the seruaunt so dooe &c. this semeth as good clayme for hys master as if he had been there in his owne parson, for that the seruaunt dyd all that his master durst doe and ought to doe

by the

by the law in such case.

Also if a man be so sicke or so lame that he may not in no maner come to the land nor to any parcel of the same, or if there be a recluse that may not because of hys order goe out of his house &c. if such a maner parson commaūd his seruaunt to goe and make clayme for him &c. and the seruaunt dare not goe to the land, nor to any parcel therof for doubt of beating, maime or death, and for that cause suche seruaunt cometh as nigh to the land as he dare for such drede, and maketh this claime &c. for his maister it semeth that such clayme for his maister is good and strong in the law, for els his maister should be in to great mischief, for it may well be that such a parson that is sick or lame, or recluse, can not find any seruaunt that dare goe vnto the land nor to any parcel of it to make the clayme for hym &c. But yf the maister of such a seruant be in good helth and may and dare wel goe to the tenementes or to parcel of it to make hys clayme for him &c. if such a maister commaund his seruaunt to goe to some parcell of the lande, and make clayme for him &c. And whan the seruaunt is in goyng to dooe the commaundement of hys maister he heareth by the way suche thinges that he dare not goe to any parcel of the land for to make any clayme for hys mayster, and for that cause he goeth as nigh vnto the land as he dare for dout of death, and there he maketh clayme for his maister in the name of hys

maister

mayster &c. It semeth that the doubte in the lawe in such case shalbe if such claim anapleth to his mayster, not for thys that the seruaunt dyd not all thys that hys maister at the tyme of commaundement durst haue done.

¶ Also some haue sayd that where a man is in prison & is disseysed & the disseisour dyeth seised during the time that the disseisi is in prison, by which tenementes discend to the heire of the disseisour, they haue sayd that this shall not hurt the disseisy that is in prison, but ỳ he may well entre notwithstãding such discent for thys that he may not make cõtinual clayme whẽ he was in prison. And also yf such a one that is in prison be outlawed in an action of dette or trespas or in appele of robbery &c. he shal reuerse such outlawry by writ of error &c. because he was in prison at the tyme of outlary against hym pronounced.

¶ Also if a recouery be had by disseisi against such a one that is in prison he shal auoyd the iudgement by a writte of errour for this ỳ he was in prison at the time of such defaut made. &c. And because ỳ such maters of record shall not hurt thẽ that be in prison but that it shal be reuersed &c. A multo fortiori, It semeth that a matter in dede, that is to saye, suche discent had when he was in prison, shall not hurt hym &c. specially for thys that he may not goe out of prison to make continuuall clayme &c.

¶ And in the same maner it semeth to them

where

where a mā is out of ꝯ realme in the kinges seruice for busines of the realm & if a man be disseised when he is in the seruice of the kyng that such discent shall not hurt the disseise, but for thys ẏ he might not make cōtinual claime &c. it semeth vnto thē that when he cometh agayn into England he may entre again vpon the heyre of the disseisour &c. For such a man shal reuerse an outlary that is pronounced agaynst him duryng the tyme that he is in seruice &c. Ergo a multo fortiori. He shall haue ayde by the law in the other case &c.

¶ Also other haue said that if a man be out of the realme though he be not in the kinges seruice, yf such a man being out of the realme be disseised of landes or tenem̄tes wꝫin the realm & the disseisour dye seised &c. the disseisy being out of the realm it semeth vnto thē that when the disseisi cometh into the realme that he may well enter vpon the heyre of the disseysour. et cetera. and thys semeth vnto them for two causes.

¶ One is, that he that is out of the realme, may not haue knowlege of the disseisin made vnto him by vnderstāding of ẏ law, no more then that a thing done out of the realme may be tried within thesame realm by the othe of xii. men &c. & compel such a man to make cōtinual claim which by the vnderstādingof ẏ law cā haue no knowlage or cognisāce of such disseisin made or done, this shalbe inconuenient namely whā such a disseisin is done vnto him,

whan

when he was out of the realme, also the dy-
ing seised was done when he was out of the
realme. For in such case he may not by possibi-
litie after the common presumpcion make no
continuall clayme, but otherwise it shalbe if
the disseisie wer within ỹ realme at the time
of the disseisin or at the tyme of the dying sey-
sed of the disseisour &c. An other matter they
alledged for a proofe that when the statute of
kyng Edward the third the.xxxiii.yere of his
raigne, by which estatute no clayms is out &c.
the law was such, that if a kyne wer seised of
certayn landes or tenemẽtes, if any that was
a straunger to the kyne had right to haue, and
to recouer thesame landes or tenementes, yf
he came not and made hys clayn therof with
in a yere and a day next after the kyne seised,
he shalbe barred for euer. Quia dicebatur fi-
nis quod finem litibus imponebat. And that
the law was such, it is proued by the statute
of westminster the second. De donis condicio-
nalibus, where it speaketh if the fine be leui-
ed of tenẽtes geuen in the tayle &c. Quod finis
ipso iure sit nullus, nec habeant heredes aut
illi quos spectat reuercio licet plene etatis fu-
it in anglia extra personam, necesse abbonere
clameum suum. So it is proued that if a strã-
ger that hath ryght vnto the tenementes if he
wer out of the realme at the tyme of the kyne
seised &c. shall haue no dammage though that
such kyne was mater of record by greater rea
son it semeth vnto them that a disseisin and dis

seisi

cent that is matter and dede shal not so greue hym that was disseised when he was out of the realme at the tyme of the disseisyn and also at the tyme that the disseysour dyed seysed &c. but that he may well entre notwithstandyng such discent.

¶ Also enquire if a man be disseised and he arrayn assise agaynst the disseysour, and the recognitours of the assyse chalenge for the playntife, and the iustices of the assyse wil be aduertised of theyr iudgements vntill the next assise &c. and in the meane season the disseysour dyeth seysed &c. If the sayd sute of the assise shal be taken in law for the sayd disseysyn a continuall clayme, in so much that no defaute was vnto hym &c.

¶ Also enquere if an abbot of a monastery dye and during the tyme of vacacion a man wrongfully entreth in certain parcels of land of the monastery clayming the lande vnto hym, and hys heyres, and of that estate dyeth seysed, & the land discendeth vnto hys heyres, and after that an abbot is chosen and made abbot of the same monastery, a question is yf the abbot may enter vppon the heyre or not. And it semeth to some, that the abbot may well enter in thys case, for thys that the couent in tyme of vacacion was no parson, able to make continual clayme for no more than they be parsonable to sue an accion, no more be they parsonable to make continual claym, for the couent is but as a dead body without head, for in

tyme

tyme of vacacion a graunt made vnto them is voyde, and in thys case, the Abbot maye not haue a writ of entre vpon disseisin against the heyre, for this that he was neuer disseised. And if the abbot may not enter in this case, than he shall put vnto hys wrytte of right the which shalbe to hard for the house by which it semeth to them that the abbot may wel entre &c. Quere de dubus legem bene discere si vis quere dat sapere que sunt legittima vere.

¶ Relessees. Cap. 9.

RElesses be in dyuers maners that is to say relesse of right that a man hath in landes or tenementes. & release of accions reals & parsonals, and of other thinges relesse of all the right ꝑ a man hath in landes or tenemẽtes &c. is cõmonly made in such forme or to such effect. Nouerint vniuersi ꝑ presentes me. A. de B. remisisse, relaxasse. & omnino de me & hercõ meis quiet̃ clamasse E de. D. totũ ius titulũ & clameũ q̃ hũ habeo vel quouismodo in futuro habere potero de et in vno mes̃ cum ptinen̄ in F. &c. And it is to vnderstand ꝑ these wordes (remisisse & quiet̃ clamasse) be of such effecte as these wordes relaxasse &c. & also these woordes which be cõmonly put in such dedes of relesses. &c. that is to vnderstãd. Que quouismodo in futurum habere potero, be as woordes voyde in the lawe, for no right passeth by a release but the right that the lessour hath at the time of his release made for if it be father and sonne,

ſonne, & the father be diſſeiſed. & the ſonne liuing, hys father releaſeth by hys dede to the diſſeiſor al the right that he hath or may haue in the ſame tenementes without clauſe of warrãtiſe &c. & after the father dyeth ỹ ſonne may lawfully enẽ vpon the poſſeſſion of the diſſeyſor for this ỹ he had no right in ỹ land liuyng his father, but ỹ right diſcended vnto hym by diſcẽt aft the releaſe made by the death of his father. Alſo in a releaſe of al the right ỹ a man hath in certain lãdes, it behoueth vnto hym to whõ the releaſe is made in ſuch caſe ỹ he haue a free hold in the lãdes in dede or in the law at the time of the releaſe made, for in euery where he to whõ the releaſe is made, hath a free hold in dede or in law at the tyme of the releaſe made &c. the releaſe is good frankteſit in law. as if a man haue diſſeyſed another & therof dyeth ſeiſed by the which the tenemẽtes diſcend vnto hys ſonne, howe be yt that hys ſonne entre not in the tenementes, yet he hath a franktenemět in the lawe to hym vpon him, & therfore ỹ releſe made is good ynough And if he take a wyfe ſo beyng ſeyſed in the law howbeit that he neuer enter in dede & dyeth his wyfe ſhal haue therof her dower. Alſo in ſuch caſe of releſe of al her right, howbeit ỹ he to whõ the releſe is made ne hath anything in the franktenemět neither in dede nor in lawe, yet the releaſe is good ynough, as if the diſſeyſour haue lette lande that he had by diſſeyſyn to another for tearme of hys lyfe,

ſauing

ſauing the reuerciõ to hym, if the diſſeiſie or hys heyres releaſe vnto the diſſeyſour all the ryght &c. that releaſe is good. for this that he to whom the releaſe is made, had in hym reuerciõ at the tyme of the releaſe made. In theſame maner if a leaſe be made to a manne for terme of lyfe the remaynder vnto another for terme of lyfe the remaynder vnto the thyrd in the tayle, the remaynder vnto the fourth in fee, if a ſtraunger that hath the ryght vnto the land releaſe all hys right vnto any of them the remaynder, ſuch releaſe is good, for thys that euery of them hath a remaynder veſted in hym ſelf. yet if the tenant for terme of lyfe be diſſeyſed and after that hath ryght (the poſſeſſion beyng in the diſſeiſour) releaſe vnto one of the to whome the remaynder was made all hys ryght &c. That releaſe is voyde, for that that he nc had in hym no remaynder in dede, but all onely a ryght of a remaynder, at the tyme of the releaſe made. Et nota, that euery releaſe made to hym that hath a reuerciõ or a remaynder in dede ſhal ſerue and help thẽ that haue the frank tenement as well as them to whõ the releaſe is made yf the tenant haue the releaſe in hys hand &c. In theſame maner a releaſe made to a tenant for terme of lyfe, or to a tenant in the tayle, ſhall enure vnto them in the reuerciõ or to them in the remaynder as well as to the tenant of frank tenement. and ſhall haue a great aduauntage of that, if that they may ſhew it, alſo if there be lorde and te-

nant

haunt and the tenant is diſſeaſed, and the diſ-
ſeyſi releaſeth vnto the diſſeaſour all the right
that he hath in the ſeignioꝛye oꝛ in the lande,
the releaſe is good and the ſeignioꝛye is ex-
tynct. And yf the goodes of the diſſeyſi be take,
and of them the diſſeaſi ſueth a repiegiare a-
gaynſt the loꝛde, he ſhall compell the loꝛde to
auow vnto hym, and yf he wyl auow vpō the
diſſeaſour, then vpon the matter ſhewed, the
auowry ſhall be abated, foꝛ the dyſſeaſe is te-
nant to them in ryght and in law.

¶ Alſo yf lande be geuen to a manne in the
tayle reſeruyng vnto the donour & hys heires
a certayne rent, yf the done be dyſſeaſed, and
after the donour releaſeth to the done al the
ryght that he hath in the lande, and after the
donee entreth into the lande vpon the dyſſea-
ſour, in this caſe the rent is gone, foꝛ thys ỹ
the dyſſeaſy at the tyme of the releaſe made
was tenaunt in ryght and in lawe vnto the
donour and the auowry of fine foꝛce ought to
be made vpō hi by the donoꝛ foꝛ the rēt behind
&c. But yet nothig of the ryght of ỹ lād ỹ is to
ſaye of the reuerē than paſſeth not by ſuch re-
leaſe, foꝛ this that the done to whom the re-
leaſe was made then hadde nothyng in the
lande, but onely a ryght and ſo the right of the
lande, he maye not paſſe by ſuche releaſe to
the donee. In the ſame maner it is yf a
leaſe bee made to one foꝛ terme of lyfe, re-
ſeruyng to the leſſour and to hys heyres cer-
tayne rente, yf the leſſee bee dyſſeaſed, and

after the leſſour releaſeth to the leſſe, and to hys heyres and after the leſſe entreth, howbeit that in the caſe the rent is extincte, yet nothyng of the ryght palleth. &c. cauſa qua ſupra. But yf it be very lorde and very tenaunt and the tenaunt maketh a feoffement in fee, the which feoffe neuer became tenant to the lord &c. yf the lorde releaſe to the feoffour all hys ryght. &c. that releaſe is in al void for this that the feoffour hath no ryght in the lande, and he is no ryght in the lande and he is no tenaunt in ryght to the lorde but onely tenaunt as for the auowry to be made, and he ſhall neuer cõpell the lorde to auowe vpon hym for the lord may auow vpon him the feoffe yf he wyl it be otherwyſe it is where the very tenant is diſſeaſed as in caſe aforeſayd for yf the very tenant that is diſſeaſed holdeth of the lorde by knyghtes ſeruice, and dyeth, hys heyres beyng within age the lorde ſhall haue and ſeaſe the warde of the heire. And ſo he ſhall not haue the ward of the feoffor that made the feoffement in fee ſo it is a great diuerſite betwene theſe two caſes.

¶ Alſo yf a manne enfeoffe another in his lande vpon truſte and to the entent that he ſhall parfourme his laſt wyll and the feoffor occupyeth that ſame at the wyll of his feoffes and after the feoffes releaſe by theyr dede vnto the feoffour all the ryght. &c. This hath bee in queſtion yf ſuche releaſe bee good or not, ſome haue ſaide that ſuche releaſe is good for

thys that no priuitie was betwene the feoffes and theyr feoffour in ſo muche that no leaſe was made after ſuche feoffemente by the feoffes to theyr feoffour to holde at theyr wyll. &c. and ſome haue ſayde the contrary and that for two cauſes. One is that whan ſuch feoffement is made vpon confidence to parfourme the will of the feoffour, that it ſhalbe vnderſtād by the law that the feoffor by and by, ought to occupy the land, at the will of hys feoffees, and ſo it is ſuche maner of priuitie betwene them, as yf a manne make a feoffement to another perſon and they incontinent vpon the feoffement wyll ſaye and graunt that the feoffour ſhall occuppe the lande at theyr wyll. &c. Another cauſe they alledge that yf ſuche lande be worth. xl. s. by yere. &c. Than ſuch a feoffour ſhalbe ſworne in aſſyſes and in other inqſtes in plees reals and alſo in plees perſonels, of what great ſommes ſoeuer that the playntifs wyll declare. &c. And thys is by the common law of the land. Ergo thys is for a gret cauſe, and the cauſe is that the law wyll that ſuche feoffours and their heyres ought to occupy. &c And to take therof the rent and all the profytes and all maner of yſſues, and reuenues. &c. As though the tenementes wer their own wythout interruption of feoffes, notwſtādyng ſuch feffemtz. Ergo the ſame law geueth a priuite betwene ſuch feoffors, & their feffes vpō confydence. &c. For wyche cauſes they haue ſayde that the releaſe made by ſuche

feoffes vppon confidence to the feoffour, or to hys heyres et cetera. So occupying the lande. &c. ſhall bee good ynough & cetera. And this is the better oppinió, as it ſemeth. Alſo releaſes after the matter in dede ſometyme haue theyr effecte by force to enlarge the eſtate of them, to whom the releaſe is maõ, as yf I lette certayn land to a man for terme of yeares, by force whereof he is poſſeſſed, and I releaſe vnto hym all the ryght that I haue in the lande without more woordes ſet or put in the dede, and deliuer vnto hym the dede. Than he hath eſtate but for terme of hys lyfe, and the cauſe is for thys that whã the reuercyon or the remaynder is in a manne the whyche wyll enlarge by hys releaſe the eſtate of the tenaunt. &c. he ſhall haue no greater eſtate but in the maner and fourme. As if ſuche a leaſour were ſeaſed in fee and wyl by his dede make eſtate to one in a certayne fourme. &c. and deliuer vnto hym ſeyſin by force of the ſame dede if in ſuche dede of feoffement ther be no woordes of inheritaunce. &c. Thã he hath eſtate but for terme of life. &c. and ſo it is in ſuche releaſe made by hym in the reuercion, or in the remaynder for yf I let lande to a mã for terme of lyfe, and after I releaſe vnto hym all my ryght without more ſaying in the releaſe, hys eſtate is not enlarged. But yf I releaſe vnto hym and to hys heyres of hys body ingendred, than he hath fe tayle, and yf I releaſe vnto hym and to hys heyres, than he

hath

hath fee ſymple. So it behoueth in ſuche caſe to ſpecifye in the dede, what eſtate he to whō the releaſe is made ſhall haue. ꝛc. And ſometyme releaſe ſhall enure to ſet & putt the rygh̄t of hym that maketh the releaſe to hym, to whō the releaſe is made. As a manne is diſſeaſed and he releaſeth vnto the diſſeaſour all the rygh̄t that he hath. In thys caſe the diſſeaſour hath hys rygh̄t, ſo that wher his eſtats before was wrong, now by the releaſe it is lawfull and rygh̄t but note well that whan a manne is ſeaſed in fee ſymple of any landes, or tenementes, and another wyll releaſe vnto hym all the rygh̄t that he hath in theſame tenementes it nedeth not to ſpeake of the heyres of hym to whom the releaſe is made, for this that he had fe ſymple at the tyme of the releaſe made, for yf the releaſe were made to hym and to hys heyres for one daye or for one houre, this ſhal be as ſtrong vnto hym in the law, as he had releaſed to hym and to hys heires for whā hys rygh̄t was gone from him at one tyme by his releaſe without any condicion. ꝛc. to hym that had fe ſymple it is gone for euer. But where a man hath a reuercion, or a remaynder in fe ſymple at the tyme of the releaſe made there yf he wyll releaſe to the tenaunt for terme of peres or for terme of lyfe, or to the tenaunt in the tayle, it behoueth to determyne the eſtate that he to whō the releaſe is made ſhall haue by force of theſame releaſe. For this that ſuch releaſe goeth to enlarge the eſtate. ꝛc. of hym

to whō the relese is made. But otherwyse it is wher a mā hath but a right vnto the land & hath nothing in the reuerc̄ nor in the remayndre in dede. For if such a man release all hys right to one ẏ is tenāt of the frāktenemēt al his right is gone, though that no menc̄ be made of his heires of him to whō the release is made For if I let land to a man for terme of lyfe, if I after release vnto him for to enlarge hys estate, it behoueth that I release vnto him & to his heires of his body engendred, or to hi & to his heires males of his body begotten or by such sēblable estate. &c. or otherwise he hath no greater estate thā he had before. But yf my tenāt for tme of life let the same land out to another for terme of the lyfe of his lesse, the remainder vnto another in fe, now if I release vnto him to whom my tenaunt letted for terme of life I shalbe barred for euer, though that no mencion be made of his heyres, for thys that at the time of the release made I had no reūcion but onely a ryght to haue the reuercion. For by such a lease with a remaīder ouer that my tenaunt made, in thys case my reuercyon is discontinued and suche a release shal enure vnto hym in the remaynder to haue aduauntage of thys as well as to the tenaunte for terme of lyfe for to that entent the tenant for terme of life & he in the remaynder be as one tenant in the law, and be as if one tenant wer sole seased in hys demeane as of fe at the time of suche release made vnto hym. Also yf a mā

be

be dyſceyled by twoo yf he releaſe vnto one of them he ſhall holde hys fetowe out of the lād and by ſuche releaſe ſhall haue ſole poſſeſſion, and eſtate in the lande. But yf one dyſceaſour enfeoffe twoo in fee, and the diſſeyſy releaſe to one of them thys ſhall enure to both the ſayd feoffees. And the cauſe of the diuerſitye betwene theſe twoo caſes is repugnaunt ynough.

¶ Alſo if I be diſſeaſed, & the diſſeiſor is diſſeaſed if I releaſe to the diſſeiſor of my diſſeiſor. I ſhall neuer haue aſſiſe nor enter vpon his diſſeaſour, for thys that hys dyſceyſour hath my ryght by my releaſe. &c. And ſo it ſemeth in this caſe that yf there wer twēty diſſeiſors eche after other, & I releaſe to the laſt diſſeiſor he ſhal barre al the other of theyr accions & their title. And ȳ cauſe is as it ſemeth, for this that in many in caſes when a man hath a lawful title to enter though he enter not. &c. he ſhal deſete al meane tuies by his releaſe. &c. But this is not in euery cauſe as ſhalbe ſayde afterwarde.

¶ Alſo if a mā be diſſeiſed the whiche hath a ſōne within age, & dieth & being the ſōne within age the diſſeiſor dieth ſeaſed, & the land deſcendeth to his heire, & a ſtranger abateth, and after the ſōne of the diſſeiſy whā he commeth vnto full age releaſeth all his ryght. &c. to the abatour. In this caſe the heire of the dyſceyſour ſhall haue no aſſiſe of mortdaunceſter againſt the abatour but he ſhal be barred of the

assyse for thys that the abatour hath the ryghi of the sonne of the dysseasy by hys release, and the enter of the sonne was lawfull. &c. for thys that he was wythin age at the tyme of ye dyscent &c. but yf a manne bee dysseased and the dysseasour maketh a feoffement vpon condicion that is to saye to yeld vnto hym certain rent and for the defaute of payment a reentre &c. yf the dysseisy release to the feoffe vpon cōdycion yet this altereth not the estate of the feoffe vpon condicion as it was before. In thesame maner it is where a man is disseased of certayne lande, and the disseasour graunteth a rent charge out of thesame land though that after the disseisy releaseth vnto the disseysour. &c. yet the rent charge abideth in his force. And the cause is in these two cases that a man shal haue none aduauntage by suche release that shall be agaynst hys owne proper acceptance and agaynst his owne grant And though that some haue sayd that where the enter of a man is congeable vpon a tenaunt yf he release to thesame tenaunt that thys auayleth vnto the tenaunt so as yf he had entred vpon the tenāt and after enfeoffed hym. &c. this is not true in euery case for in the fyrste case of these twoo cases yf the dysseisy in fee enter vpō the feoffe vpon condicion and after enfeoffeth hym, than the condicion is all put asyde and voyde. And in the seconde case if the disseisi enter and enfeoffe hym that graunted the rent charge than is the rent charge auoyded. But it is not auoi

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ded by any ſuch releaſe with an enter made &c. Alſo yf a man be diſſeaſed by a child within age the which alyeneth in fe, and the alyen dyeth ſeaſed and his heyre entreth beyng the dyſſeiſour within age. Now it is in the election of the diſſeaſour to haue a wrpt of Dū fuit infra etatem. Or a wrytte of ryght agaynſt the heyre of the alyen and which wrpt ſo euer he taketh of thē he ought to recouer by the law. And alſo he may enter into the lande without any recouere & in this caſe the enter of the dyſſeiſi is taken away but in this caſe yf the dyſſeiſy releaſe hys ryght to the heyre of the alyen and after the diſſeaſour bryngeth a wrytte of ryght agaynſt the heyre of the alyene, and he voyneth the myſe vpon the clere ryght &c. the graunde aſſyſe ought by the law to fynde that the tenaunt hath more clere ryght. &c. thā hath the diſſeſour for this that the tenant hath the right of the diſſeiſy & his releſe which is more ancient & more clere ryght thā the right of the diſſeaſor, for by ſuch releaſe al the right of the diſſeiſy paſſeth vnto the teñt, & is in the tenāt. And to this ſom haue ſaid yᵗ in ſuch caſe wher a mā hath right to landes or tenemēts but hys enter is not lawful, if he releſe vnto the teñt. &c. Than ſuch releaſe ſhal enure by way of extynguiſhment. As vnto this it may be ſayd that this is truth vnto hi that releaſeth for by his releaſe he hath diſmiſſed hi ſelf clene of his right as to his perſon. But yet the ryght that he had may wel paſſe & go vnto the teñt by his releaſe,

releaſe, for it ſhould be inconuenient that ſuch an auncient right ſhould be extinct al vtteriye, &c. for it is comōly ſayd that right may not die But a releaſe ỹ goth by the way of extinguiſhment againſt al ꝑſons, is wher he to whō the releaſe is made may not haue this that vnto hi is releaſed, as if ther be lord and tenant, and the lord releaſeth vnto the tenant al the right that he hath in the lordſhip or al the ryght ỹ he hath in the land. &c. ſuch a releaſe goeth by waye of extinguiſhment againſt al parſons, for this that the tenant may not haue thelame of hymſelf. In thelame mañ is a releaſe made to the tenant of the land of a rent charge or of a comon paſture for this that the tenant may not haue that that vnto hym is releaſed, &c. So ſuch releaſes goe away by extynguiſhment agaynſt all parſons.

¶ Alſo to proue that the graunde aſſyſe ought to paſſe for the demandaunt in the caſe afore-ſaid I haue heard often in the lecture vppon the ſtatute of weſtm̄ the ſeconde that begynneth. In caſu quando vir amiſerit per defaltā tenementū q̄ fuit ux̄is ſue. &c. that is at the comō law before the ſtatute, if a leaſe wer made to a tenant for terme of life the remaynder out in fe & a ſtranger by a fayned acciō recouer againſt the tenante for terme of life by defaut, & after the tenāt dieth, he in the remaindre had no remedy before the ſtatute for thys that he had no poſſeſſiō of the land, but if he in the remainder had entred vpō the tenant for

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terme of lyfe. and disseised hym, and after the tenant entreth vpon hym. and after the tenit for terme of lyfe leaseth by such recouere had by defaut and dyeth, now he in the remaidre maye well haue a wryt of ryght agaynst hym that recouered, for thys that the myse shall be ioyned onely vpon the clere right. And yet in this case the seisin of hym in the remaynder, was defeted by the entre of the tenaunte for terme of lyfe. But paraduenture some wyll argue and say that he shall haue no wrytte of right in this case, for this that whan the mise is ioyned in such maner, that is to say, yf the tenant haue more clere right to the lande in the maner as it is holden, than the demaundaunt hath in the maner as he demaundeth. And for this that the seisin of the demaundaunt was defeted by the entre of the tenaunt for terme of lyfe, than he hath no ryght in the maner as he demaundeth. Unto thys it maye be sayde that these wordes (Modo & forma prout. &c.) in many cases be woordes of maner of pleadyng and no wordes of substance for if a mā bring a writ of entre (In casu prouiso) of alyenac̄ made by the tenit in dower to his disenheritance. & pledeth of the alienacion made in fe & the tenit saith that he aliened not in the man as the demaundant hath declared, & vpō thys they be at issue, & it is found by verdit that the tenaunt aliened in the tayle, or for terme of a-anothers life the demaundaunt shall recouer, and yet the alienacion was not in the maner

as

as the demaundaunt hath declared.

¶ Also if there be lorde and tenant, and the tenant holdeth of the lorde by fealtie onely, & the lorde dystrayneth the tenant for rent, and the tenant bryngeth a wryt of trespas agaīst hys lorde for hys cattayle so taken, and the lorde pleadeth that the tenaunt holdeth of hym by fealtie and certayne rent, and for the rent behynde he came to dystrayne. &c. And demaū-deth iudgement of the wryt brought agaynst hī. Quare vi & armis. &c. And the other sayth, that he holdeth not of hym in the maner as he supposeth, and vpon thys they be not at yssue, and it is founde by verdyte that he holdeth of hym by fealte tantū in this case the wryt shall abate, & yet he held not of the lord in the ma-ner as the lord had said for the mater of the is-sue is whether the tenant holdeth of hym or not. For if he hold of him though the lord dis-trayne for other seruices that he ought not to haue yet suche wrīt of this. Quare vi & armis. &c. lieth not against the lord but shal abate.

¶ Also in a wryt of trespas of bearyng or of goodes taken yf the defendant plede nothyng culpable in the maner as the playntyf suppo-seth and it is founde that the defendant is cul pable in another towne or at another day thā the plaintif supposeth yet he shall recouū. And in many mo other cases these wordes, that is to say in the maner as the demandaunt or the plaintif hath supposed, be no matter of sub-staunce of that issue for in a wryt of ryght wher

the

the myſe is ioined vpon the clere right it is as much to ſay and to ſuch effect that is to witt, whether hath the moze ryght the tenaunt oz the demaundaunte to the thyng ſo demaunded. &c.

¶ Also yf a man be diſſeaſed and the diſſeaſoz dyeth ſeaſed. &c. and his ſonne entreth by deſcent and the diſſeaſi entreth vpon the heyze of the diſſeaſour, the which enter is a diſſeaſy &c. yf the heyze bryng aſſyſe oz a wzyt of right againſt the diſſeyſy he ſhalbe barred. ffoz this that whan the graunde aſſyſe is ſwozn theyz othe is vpon the clere ryght and not vpon the poſſeſſion. &c. foz yf the heyze of the diſſeaſour had brought aſſyſe of nouel diſſeaſyn, oz a wzit of enter in nature of aſſyſe and recouered agaynſt the diſſeiſi and ſued execucion yet may the diſſeaſi haue a wzyt of enter in the per agaynſt hym of the diſſeaſin made vnto hym by his father, oz he may haue agaynſt the heyze a wzyt of ryght. But if the heyze ought to recouer agaynſt the diſſeaſi in the caſe afozeſayde by wzyt of ryght then al his right ſhalbe clerely gone, foz this that a fynall iudgement ſhold be geuen agaynſt hym which ſhould be againſt reaſon wher the diſſeiſy hath moze clere right &c. And knowe ye my ſonne that in a wzyt of ryght after this that the foure knyghtes bee choſen in the graunde aſſyſe, than there is no greater delay thā a wzytte of foꝛmedon after this ẏ the parties be at an iſſue. &c. & if ẏ myſe be ioyned vpon batraile thā ther is leſſe delay

¶ Also

¶ Alſo a releaſe of al the ryght. ꝛc. in ſom caſe is good made vnto hym that is ſuppoſed tenaunt in the law though he haue nothyng in the tenementes as in a Precipe quod reddat, yf the tenant alyen the land hanging the writ and after the demaundant releaſeth to hym al his right that releaſe is good, for this that he is ſuppoſed to be tenant by the ſute of the demaundant and yet he hath nothyng in the lād at the time of the releaſe made. In the ſame maner it is yf in a precipe quod reddat, the tenant vouche, and the vouche enter in the garrantye, yf after the demaundant releaſe to the vouche al his right. ꝛc. this is good ynoughe, for this that the vouche after this that he hath entred in the garranty is tenaunt in lawe to the demaundaunt.

¶ Alſo as two releaſes of accions reals and accions perſonels it is ſo that ſome accyons be myxt in the realtie and in the perſonaltie, as yf an accion of waſt be ſued againſt the tenant for terme of life, thys accion is in the realte for this that the place waſted ſhalbe recouered, & alſo it is in the perſonaltie. for this ẏ treble damage ſhalbe recouered for the wrong, & waſt done by the tenant, & for this in this accion a releaſe of accion real is a good plee in barre & ſo is a releaſe of accions pſonels. In the ſame maner it is in aſſiſe of nouel diſſeiſi, for this that it is mixt in ẏ realtie and in the perſonaltie. But if ſuch aſſiſe be arrayned agayn. ſt the diſſeaſour the tenant of the diſſeiſour may

plede

plede a release of acciōs parsonels for to bart the assise but not a release of acciōs reals for none shal plede a release of acc̄ reals in assyse, but the tenauntes. &c.

¶ Also in such accions that behoueth to be sued agaynst the tenaunt of the frankteneme̅t yf the tenaunt haue a release of accions reals of the demaundant made vnto hym before the wrytte purchased and he pledeth it this is a good ple for the demaundaunt to say, that he that pledeth that ple, had nothyng in the frāk tenemēt in time of the release made, for that he had no cause to haue accion reale agaynst hym.

¶ Also in suche case where a manne maye enter in landes or tenementes, he maye haue of this an accion real, which is geuē vnto hi by the law against the tenant. As in this case. the demandant release to the tenāt al mañ acc̄ reals, yet this taketh not awaye the entre of the demandant but the demandant may well enter. Notwithstanding such release for thys that nothing is released but the accion. &c. In the same maner it is of thinges parsonels. As yf a man wrongfullye take my goodes, yf I release vnto him al accions parsonels yet I may by the lawe take my goodes out of hys possession.

¶ Also if I haue cause to haue a writ of detynue of my goodes agaist another though that I release vnto hi for all accions ꝑsonels, yet I maye take my goodes out of his possession,

for

for thys that no right of goodes is released to hym but onely the accion.&c. Also yf a man be dysseased, and the dysseasour maketh a feoffement vnto dyuers parsones to hys vse, & the dysseasour contynually taketh the profites.&c and the disseasy releaseth vnto him all actions reals, and after he sueth agaynst hym a wryt of enter in nature of assyse because of the statute for thys that he taketh the profites. Enquyre how the dysseasour shall be holpē by the sayd release, for yf he wil plede the release generally, than the demandaunt may say that he had nothyng in the franktenement at the time of the release made, and yf he plede the relese specially thē it behoueth hī to know a dysseasyn, and than may the demaundaunt enter in lande.&c. by hys conysaunce of the dysseasin.&c But paraduenture by especyall pleadyng he maye be barred of the accion that he sueth.&c thoughe that the demaundaunte maye entre.&c.

¶ Also if a manne sue appelle of felony of the death of his ancester against another though the appellant release vnto the defendant all mañ acc̄ reals & psonels, this shal not help the defendant, for this that this appele is not an acc̄ real insomuch that the appellant shal not recouer any realte, nor such appele is no acciō parsonal. In so much that the wrong was vnto his auncester and not vnto him but if he release to the defendant al maner af accyons, than it shalbe a good barre in the appelle, and

ſo a man may ſee that a releaſe of a maner of accions is better then releaſe of all maner of accions and parſonals &c.

¶ Also in appele of robbery if the defendant will plede a releaſe of the appellant of all accions parſoneis, thys ſemeth no plee, for an accion of appele where the appellaunt ſhall haue iudgement of death. &c. it is more hygh than an accion parſonel, and it is not properly ſayd an accion parſonal, and therfore if the defendaunt will haue a releaſe of the appellant to barre hym of the appele, it behoueth hym to haue a releaſe of al maner of accions of appele of releaſe, or of all maner of accions as it ſemeth &c. But in appele of maym a releaſe of all maner of accyons parſonals is a good ple in barre, for thys that in ſuch an acciō he ſhal recouer but damages.

¶ Also if a man be outlawed in an acciō parſonall by proceſſe of the originall and bryng a writ of errour, yf he at whoſe ſuite was outlawed will plede agayn̄ſt him a releaſe of accyons parſonals thys ſemeth no plee, for by the layd accion he ſhal recouer nothyng in the parſonaltie, but al onely to reuerſe the outlary, but a releaſe a writ of error ſhalbe a good plee &c.

¶ Also yf a man recouer dette or damage and he releaſe to the defendant al maner of accions yet he may lawfully ſue execucion by Capias ad ſatisfaciendum or by Elegit, or by ſi fieri facias, for execucion by ſuche writte may not

be sayd an accion, but if after a yere and a day the playntif will sue a Scire facias to haue execucion &c. thē it semeth a releasse of al acciōs shalbe a good plee in barre, but some haue thought the contrary insomuch that the writ of Scire facias is a writ of execucion, & is to haue execucion. But in so much ỹ vpon the same writ the defendant may plede diuers maters after the iugemēt geuen to put him fro execucion as outlary & diuers other &c. therfore it may wel be sayd accion &c. and I trow that in a Scire facias out of a fine a releasse of al maner of actions is a good ple in barre, but where a man hath recouered dette or damage & it is accorded betwene them that the playntif shalbe put out fro accion than it behoueth that the plaintif make a releasse to hym of al maner of actions.

¶ Also if a mā releasse to another al maner demaūdes, this is the most best releasse, that he to whō the releasse is made cā haue, & most shal enure to his aduauntage, for by such releasse of al maner of demaūdes al maner of actions reals & parsonals, & accions of appeles be gone & extinct, and al maner of execuc̄ be gone and extinct. And if a mā had tytle to enter in any landes or tenemēnes by such releasse his title is gone & if a man haue rent seruice or rent charge or common of pasture &c. by such releasse of al maner demaundes to the tenant of the land wherof the seruice or the reentre is going out, or in what land soeuer the common be,

be, the seruice and rent, and the common is gone and extinct. &c.

¶ Also if a man release to another all maner quarelles, or al controuersies or debates betwene them. Enquire to what mater, and to what effect such woordes extend.

¶ Also if a mā be boūd by his dede to another in certain sūme of money to pay at the feast of S. Michael thā next folowing &c. if the oblige before ꝑ said feast release to the obligor al naciōs he shalbe barred of the duetie for euer, & yet he might haue no acciō at the time of the release made. But if a man let land to another for terme of yeres to yeld at the feast of saynt Michael next ensuing. xl. shillinges and before the same feast he releaseth to the lessee all accions, yet after the same feast he shall haue an accion of dette for the nonpayment of the. xl. shillinges. Notwithstāding the sayd release. Study the cause of the diuersitie betwene these two causes.

¶ Also where a man will sue a writ of ryght it behoueth that he plede of the disseisin of hī or of his aūcesters, & also that the seisi was in time of the same king as he pledeth in his ple for this is an anciēt law vsed as it appereth by report of a certain ple. in such fourme as ensueth Sir John Barrey brought a writ of right agaynst Raynolde Ashlyngton, and demaunded certayne tenementes et cetera. the mese was ioyned in the banke. and the originall and the processe wer sent before iustices

errantes, where the parties came and the .xii. knyghtes wer sworne without chalenge of the parties to be alowed for thys that the election was made by assent of the parties with the fowre knightes and the othe was suche, that I shall saye trouth &c. whether R of A. haue more ryght to hold the tenementes that John Barray demandeth against hym by his writ of right or John to haue the tenementz as he demaundeth and for nothyng to let to say the trouth as god me helpe. &c. withoute saying to theyr estemyng and such othe shalbe made in attaynte and in battayle and in wagyng of lawe for those doe euery thyng vnto an end. But John Barrey pleded of the dissei syn of one Rafe hys auncestre in time of king Henry, and Raynold vpon the mese ioyned tẽdered half a marke for the tyme &c. and vpon this sayd Clere iustice at the graund assyse, after thys that they wer charged vpon the clere ryght. Good man Raynold gaue half a marke to the kyng to the enteut that he fynd that the auncestre was not seised in tyme that the demaundant hath pleded no further vpon the ryght and for thys ye shall say to vs whether the auncestre of John Rafe by name was seysed in the tyme of kyng Henry as he hath pleded or not & yf he fynd that he was not seysed in the tyme ye shall inquire no more and if ye fynd that he was seysed, than enquire farther of the ryght and after the graunde assyse came with theyr verdit, and saying that Rafe was

nos

not leyſed in the tyme of king Henry, wherby it was awarded that Raynold ſhold hold the tenementes agaynſt hym demaunded to him & to hys heyres quite out of I. Barrey & his heyres to the remenant, and John in the mercy.

¶ Confyrmacion. Ca.9.

A Dede of Confyrmacion is moſt commonly in ſuche fourme or to ſuch effect. Nouerint vniuerſi &c. me A. de B. ratificaſſe, approbaſſe & confirmaſſe C. de D. ſtatum & poſſeſſiõ quos habeo de & in melwagio &c. cum pertinentijs in N. and in ſome caſe a dede of confyrmacion is good and bayiable, and where in theſame cauſe a dede of releaſe is not good nor bayiable. As I let land to a man for tearme of hys lyfe, the whiche letteth theſame land to another for xl. peres, by force of the whiche he is poſſeſſed, if I by my dede cõfyrme the ſtate vnto the tenant for terme of peres, and the tenãt for terme of lyfe dyeth duryng the tearme of hys peres may not entre in the lande duryng theſame terme, yet if I by my dede of releaſe haue releaſed to the tenant for terme of peres in the lyfe of the tenant for terme of lyfe the releaſe ſhalbe boyd, for thys that than no priuitie was betwene me and the tenaunt for terme of peres for a releaſe is not auayiable to the tenant for terme of peres but where a priuitie is betwene him, and hym that releaſeth. In theſame maner is if I be diſſeiſed and the diſſeiſour maketh a releaſe to another for

tearme of yeres. Also if I be dysseysed and I confyrme the state of the dysseisour than he hath a good and rightful estate in fee symple though ẏ in the dede of confirmaciō no mēcion is made of his heires. for this that he had fee simple at the time of ẏ confirmaciō, for in such case if the disseisi cōfirme the state of the disseisour to haue & to hold to him for term of his life, yet ẏ disseisour hath fe siple & is seised in his demene as of fee for this that whan his estate was cōfirmed he had fe simple & in such dede he may not change his estate without entre vpō hi &c. In ẏ same maner is if the estate be cōfirmed for tme of a day or for term of an other he hath a good estate in fe siple or cōfirmare firmū facere. Also if. ii. be disseisours and the disseisi releaseth to the one, he shal holde his felow out of the lād, but if the disseisi confirme the state of the one without more speche in the dede, some say ẏ he shal not hold his felow out, but he shal hold ioyntly with him, for this ẏ nothing was cōfirmed but his estate ẏ was ioynt, & for this some haue sayd that two ioyntenētz be & the one cōfirmeth the estate of the other, ẏ he hath but a ioynt estate as he had before. but if he haue such wordes in the dede of cōfirmacion to haue & to hold to him & to his heyres al the tenemētz wherof mencion is made in the confirmacion. than he hath estate sole in the tenemētes, & therfore it is a good & a sure thing in euery confirmacion to haue these wordes to haue & to hold the tenementes

nementes.&c.in fee or in fee tayle or for term of life or for terme of yeres after as the cause or the mater is, for to ẏ emēt of some if a mā let lād to another for term of life & after he cō fyrmeth hys estate by these wordes to haue & to hold his estate to him & to his heires. this cōfirmaciō as concerning his heyres is void, for his heires can not haue hys estate whiche was but for term of life but if he cōfirme hys estate by these wordes to haue thesame lād to him & to his heires this confirmacion maketh fee simple in this cause to him in the land for this that they haue & hold &c. goth to the land & not to the estate ẏ he hath &c. Also if I let certayn land to a woman sole for terme of her life the which taketh a husband, & after I cō= firme the estate to the husband & to the wife for terme of theyr two liues in thys case the husbād holdeth not ioyntly with the wife but holdeth the right of his wife for terme of hys lyfe but this confirmaciō shal ēure to the hus= band by way of remaindre for term of his life if he suruiue his wife, but if I lette land to a woman sole for term of yeres whiche taketh a husband, & after I cōfirm the state to ẏ hus= bande and the wife for tearme of bothe their lyues. in thys case they haue ioynte estate in the frankte nement of the land for thys that the wyfe had no frank tenement before. Also if a parson of a church charge the glebe of his church by his dede, and the patrone and the ordinary confyrme thesame grant and all that

is compryſed within theſame graunt, than the ſame graunt ſhall be in hys ſtrength after the purpoſe of theſame graunt, but in ſuch caſe it behoueth that the patron haue fee ſymple in the auowſon or if he haue eſtate in the auowſon for terme of lyfe or in tayle, than the grãt ſhall be but durynge his life and the lyfe of the parſon that graunted it. ꝛc. Alſo yf a man let land for terme of lyfe which tenant for terme of lyfe chargeth the land with a rent in fee, & he in the reuercion confyrmeth theſame grãt, thys charge is good inough and effectual. Alſo yf ordinary hath nothyng to meddle nor to doe, the patron of the chantry, and theyr chaplayn of theſame chauntry may charge the chaũtry with a rent charge in parpetuitie. Alſo in ſome caſe theſe verbes dedi & conceſſi haue theſame effect in ſubſtance and ſhall enure to the entent as thys verbe confyrmaui, as if I be diſſeiſed of a plough land and after I make ſuch a dede ꝛc. Sciant preſentes ꝛc. Quod dedi to the diſſeyſour the ſayde plough lande ꝛc. And I deliuer al onely the dede to him with out liuere of ſeyſyn of the land, that is good confyrmacion, and as ſtrong in the law, as if he had in the dede thys verbe confirmaui ꝛc. Alſo if I let land to a man for terme of yeres, by force of which he is poſſeſſed, and after I make to hym a dede ꝛc. Quod dedi vel conceſſi ꝛc. theſame land to haue for tearme of hys lyfe, and delyuer hym hys dede than by & by he hath eſtate in the lande for terme of his

lyfe,

like, and if I say in the dede to haue to hym and to hys heyres of hys bodye engendred he hath estate in the tayle, & if I say in the dede to haue and to holde to hym and to hys heyres he hath estate in fee symple, for this shall enure to hym by force of confyrmacion to enlarge hys estate. Also if a man be disseysed, & the disseisour dyeth seysed, and hys heyre is in by discent, after the disseisy and the heyre of the disseisour make toyntly a dede to another in fee, and liuere of seysyn vpon this is made as to the heyre of the disseisour that ensealeth the dede the tenemētes passe by the same dede by way of feoffement, and as to the disseisy that ensealeth the same dede, this shal not enure but by way of confyrmacion, but if the disseisy in this case bryng a writ of entre in the (per & cui) agaynst the ayene of the heyre of the disseisour enquire how he shall plede that dede agaynst the demaundant by way of confirmacion &c. And know ye this my child that it is one of the most honorable, laudable, and profitable thyng in our law to haue the scyēce of well pledyng, in actions reals and personals and for this I counsayle thee specially to set the corage and cure to learne that. Also if there be lord and tenaunt, and the lord confyrmeth the estate that the tenant hath in the tenemētes, yet the seignyory holly abideth to the lord as it was before. In the same maner it is, if a man haue a rent charge out of a certayn land, and he confyrme the state that the tenant

tenant hath in the land, yet abideth to the con fyrme the rent charge. In the same maner it is if a man haue comen of pasture in the land of any other, if he confirme the state of the tenant of the lād nothing shal depart from him of his common, but this notwithstanding the comon abideth to him as it was before.

¶ But if there be lord and tenant which holdeth of his lord by seruice of fealtie and .xx.s. of rente, if the lorde by his dede confirme the state of the tenaunt to hold by .xii.d. ob. or by an ob. in this case the tenant is discharged of all other seruice and shall yeld nothing to the lord but that that is cōprised within the same confirmacion, yet if the lorde will by the dede of confirmacion that the tenaunt in this case ought to yeld to him an hawke or a rose yerely at such a feast &c. this reseruacion is void, for thys that he reserueth to him a new thing that neuer was parcel of the seruices before the confirmacion, & so the lord may abbridge the seruices by such confirmacion but he may not reserue to hym a new seruice &c.

¶ Also if there be lord mene and tenant, and the tenaunt is an abbot that holdeth of the mene by certain seruices yerelye the whiche hath no cause to haue a quittance against his mene for to bring a writ of mene &c. In thys case if the mene confirme the state that the abbot hath in the land, to haue & to hold the lād vnto him and his successors in frank almoygn or free almes &c. In this case this confirmacō is good,

is good & the the abbot holdeth of the mene in fraūk almoygn. and the cause is for thys, that no new seruice is reserued for al the seruices specially specified be extinct & nothig is reserued to the mene. but the abbot shall hold of the land, & that was before the confirmaciō. for he þ holdeth in fraūk almoygn ought to do no bodely seruice for þ by such confirmaciō it appereth that the mene shal reserue vnto him no new seruice, but þ the tēdes shalbe holden of him as it was before & in this case the abbot shal haue a writ of mene if he be distrayned in his defaute by force of the sayd cōfirmacion where parcase he might not haue such a writ before &c.

¶ Also if I be seised of a villain as of a villayn in grosse & another taketh him out of my possessiō claymig it to be his villain & after I cōfirme vnto him the state that he hath in my villain, this cōfirmacion semeth void. for this þ none may haue possessiō of a mās as of a villain in grosse & in so much that he to whō the confirmacē was made was not seised of him as of his villain at the time of the confirmaciō, such confirmacē is void but in this case if such wordes were in the dede. Sciatis me dedisse & confirmasse tali &c. talem villanum meum, this is good, but this shal cure by force & way of grāt. & not by way of confirmacion &c. Also sometime these verbes dedi & concessi venure by way of extynguishement of the thing geuen or graunted. As a tenaunt holdeth of his

of hys lord by certayn rent, and the lorde by his dede graunteth to the tenant and to hys heyres the rent.&c.thys shall enure to the tenant by waye of extinguishment, for by thys graunt the rent is extinct. In this same maner it is where one hath a rent charge of certayn land,and he graunteth to the tenaunt of the land the rent charge and the cause is for thys that it appeareth by the wordes of the graunt that the will of the donour is that the tenant shall haue the rent &c.in so much that he may haue no rent out of hys own lande, for thys the dede shalbe vnderstand and take for the most aduauntage and auayle of the tenant that it may be, and that is by way of extinguishment. Also if I let land to a man for terme of yeres & after I confyrme hys estate without moe wordes put in the dede, he hath no greater estate but for terme of yeres as he had before but if I release to hym my ryghte that I haue in the land without mo wordes put in the dede,he hath estate of franke tenement and so mayst thou chyld vnderstand'grete diuersities betwene releases and confyrmacions.And if I be within age and let land to one for terme of.xx.yeres,and he graunteth the land for terme of.x.yeres so that grant is but parcel of his terme. In this case when I am of full age if I release vnto the grauntee of my lesse &c. Thys release is voyde,for this that there is no priuitie betwene hym and me. But if I confyrme hys estate then thys confyrma-

fyrmacion is good, but if my lessee graunt all hys estate to another, then my release made to the grauntee is good and effectuall. Also if a man graunt a rent charge out of hys land to another for terme of hys lyfe, and after I confyrme hys estate in the sayd rent to haue, and to hold to hym in fee tayle, or in fee symple, thys confyrmacion is voyd as to enlargeing of hys estate for thys that he that confyrmed had no reuercion in the rent, but yf a manne seyled in fee of rent seruice or of rent charge, and he graunteth the rent to another for term of lyfe and tenant attorneth, and after he confyrmeth the estate of the grauntee in fee tayle or in fee simple, thys confyrmacion is good as to enlarge his estate after the wordes of the dede of confyrmacion, for thys that he that cõfyrmed the estate at the tyme of the confirmacion hadde the reuercion of the rent &c. but in thys case aforesayd, where a man graunteth a rent charge to another for terme of lyfe, if he will that the grauntee shall haue estate in the tayle or in fee, hym behoueth that the dede of the grauntee of the rent charge for tearme of lyfe, be resurrendred or councelled, and then to make a new dede of suche a rent charge to haue and to take to the grauntee in the tayle or in fee. Ex paucis dictis plurima intendere potes.

Attornement. Capi.x.

Attorne-

Attornement.

ATtornement is if ther be lord & tenant and the lord wil graũt by his dede the seruice of his tenãt to another for term of yeres or for term of life or in tayle or in fee hi behoueth ẏ the tenant attorne to the graunte in the life of the grauntour by force & vertue of the graũte or otherwyse the graunt is voyd and attornement is none other thyng in effect, but when the tenant hath heard of the graũte made by hys lorde, that thesame tenaunt by word agree to the sayd graunt, as to say to the grauntee, I agree me to the graunt made to you, or I am wel contẽt of the graunt made to you &c. but the more common attornement is to say, syr I attorn to you by force of thesame graũt or I become your tenant &c. or to deliuer vnto the graupte. i. d. ob. or ferthing by waye of attournement. &c.

¶ Also if a man be seased of a maner whiche maner is parcel in demene & parcel in seruice if he wil alien in such maner to another, it behoueth ẏ by force of the alienac̃ all the tenãtes that hold of the alienor as of thys maner &c attourne to the aliene or otherwyse the seruices abyde continually in the alienour, except tenantes at will, for it nedeth not the tenantes at will attourne vpon such alienacion &c. for this that thesame landes or tenementes that they holde at will dode passe to the aliene by force of such alienacion.

¶ Also if there be lord and tenaunt, and the tenaunt letteth the tenementes to a man for

terms

terme of life the remaynder to another in fee, if ỹ lord graũt the seruices to the tenant for terme of life in fee, in this case the tenũt for terme of life hath fee in the seruices, but seruices be put in suspẽce durig his life but his heires shal haue the seruices after his death, & in that case it nedeth not an attornement, for by the acceptance of ỹ dede of him that ought to attorne, this is attornement in himselfe &c. but where the tenant hath as great & high estate in the tenemẽtes as the lord hath in the seignory, in such case if the lord graũt the seruice vnto the tenant in fee this enureth by way of extinguishment. Causa patet.

Also if there be lord & tenant and the tenãt maketh a lease to one for terme of life, sauing the reuerẽ vnto him, if the lord graũt the seignory to the tenũt for terme of life in fee, in this case it behoueth ỹ he in the reuercio attorne to the tenũt for terme of life by force of ỹ graũt or otherwise the grant is voyd for this that he in the reuercion is tenant vnto the lord.

Also if there be lorde and tenaunt, and the tenaunt holdeth of the lorde by twenty maner of seruices, and the lord grauntth his seignory to an other if the tenaunt paye or doe anye of the seruyce to the grauntee, thys is a good attournement of, & for the seruices though that the tenauntes entente was to attourne but of thesame parcell, for thys that the seygnyorye is an holye thynge, though that

that there be diuers manner of seruices that the tenant ought to doo.

¶ Also if there be lord and tenaunt and the tenaunt holdeth of the lorde by many maner of seruices and the lord granteth the seruices to another by fyne, yf the grauntee sue a Scire facias out of the same fyne for any parcell of the seruices and hath iudgement to recouer this iudgement is a good attornement in the law for all the seruices.

¶ Also if the lord of the rent graunteth the seruices vnto another, and the tenaunt attorneth by a peny and after the graunte distrayneth for rent behynd, and the tenant to hym maketh rescous In thys case the grauntee shall not haue assyse of the rent but he shall haue a writ of rescous for that the gyft of the peny was but by way of attornement. But if the tenant had geuen vnto the granntee the sayd peny as parcel of the rent or an halfe peny or a farthing by waye of seisin of the rent, then thys is a good attornement and also it is a good seisin to the graunt of the rent. And then vpon such rescous the graunt shall haue assise &c.

¶ Also if a man let tenementes for terme of yeres by force of which the lessee is seised, & after the lord graunteth by his dede of the reuercion for terme of lyfe or in tayle or in fee, it behoueth him in this case that the tenāt for terme of yeres attorne, or otherwyse nothing passeth such grant by such dede, and if in this

case the

the tenaunt for terme of yeares attourne to the graunte, then by and by falleth the franktenement on the graunte by luche attournement without any liuere of seisin. &c. for thys yf any thīe shalbe made or nedeth to be made in luche cale, then the tenaunt for terme of yeares shalbee at tyme of the liuere of leysyn out of his possession which should be agayn. ſt reason.

Also yf lande be let to a man for terme of yeares the remaynder to another for terme of lyfe reseruyng to the leasour a certain rent by yeare and liuere of seisyn is made vppon this to the tenaunt for terme of yeres, if he in the reuercion in luche case graunt his reuercion to another. &c. and the tenant that is in the remaynder after the terme of yeres atturneth this is a good attournement, and he to whome the reuercion is graunted by force of such attournement shal distrayne the tenant for fine of yeres for the rent due after such attournement though the tenant for terme of yeres neuer attourned vnto hym. and the cause is for that, wher the reuercion is dependaunt vpon the statute of franktenement, it sufficeth that the tenaunt of the franktenement attorne vpon suche graunt of reuercion. &c. and it is to wytte that where a lease for terme of yeres or for terme of lyfe or agyst in the tayle is made to any man reseruing to suche a leasour or donour certayn rent, yf such a leasour or donour graunt his reuercion to another, & the tenant

of the lande attourne, the rent palleth to the grauntee though in the dede of the graunte of reuercion, no mencion is made of the rēt, for this that the rent is incident to the reuercion in such case, and not econuerlo, for yf a manne wyll graunt the rent, in suche case vnto another, reseruing to hym the reuercion of ꝯ lād though the tenaunt attourne to the grauntee this shalbe but a rent secke. ꝛc.

¶ Also yf a man let lande vnto another for terme of lyfe, and after suche lease he confyrmeth by a dede the estate of the tenaunte for terme of lyfe, the remaynder to another in fe, and the tenant for terme of lyfe, accepteth the dede, then is the remaynder in dede to him to whom the remainder was geuen or limyted in the same dede, for by the acceptaunce of the tenant for terme of life of the same dede this is a graunt of hym and so an attournement in lawe, but yet he in the remaynder shall haue none accīō of wast nor other benifite by such remaynder. but yf that he haue the same dede in his hande, by whyche the remainder was graūted vnto hym, and for this that in suche case the tenaunt for terme of lyfe wyll retayne to hym the dede, to the entente that he in the remaynder shall haue no accion of wast against hym, for thys that he maye not come to haue the possession of the dede et cetera. It shall bee good in suche case for hym in the remaynder that a dede endented bee made by hym that wyll make the confyrmacion, and

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the remaynder ouer et cetera. And that he that maketh suche confyrmacyon deliuer a parte of the indenture to the tenaunt for terme of lyfe, and the other parte to hym that hath the remaynder, And than he by shewing of the parte of the endenture maie haue an accion of waste agaynst the tenaunt for terme of life. and all other aduauntage that he in the remainder may haue in such case.

Also yf two toyntenauntes bee, whyche letteth lande to another for terme of lyfe, yeldyng to them and to theyr heyres a certayne rente by yeare. In this case yf one of the twoo toyntenauntes in the reuercion release to the other toyntenaunt in the same reuercion, this release is good, and he to whom the release is made, shall haue only the rent of the tenaunt for terme of life, and shall haue a wrytte of waste agaynst them though he neuer attourned by force of suche release, and the cause is for the priuitye that once was betwene the tenaunte for terme of lyfe, and them in the reuercion. In the same maner, and for the same cause it is where a man letteth lande to another for terme of his life the remaynder to another for terme of hys lyfe, reseruyng the reuercion to the lessour, in thys case yf he in the reuercion release to hym in the remaynder, &c. And to hys heyres all hys ryght. &c. Then he in the remaynder hath a fee et cetera. And shall haue a wrytte of waste agaynste the tenaunte for terme

of lyfe wythoute any attournement of him.&c

¶ Also yf a lease be made for terme of lyfe the remaynder vnto another in the tayle, the remaynder ouer to the ryght heyres of the tenaunt to terme of life, in this case if the tenãt for terme of lyfe graunt his remaynder in fee to another by his dede, that remainder by and by passeth by his dede wõut any other atturnemẽt. For yf any ought to attourne, in this case it should be the tenant for terme of lyfe. And it wer in vain that he attourne vpon his own graunt. &c.

¶ Also yf there be Lorde and tenaunt and the tenaunt holdeth of lorde by certayne rent and knyghtes seruices yf the lorde graunt the seruices of the tenaunt by fyne, the seruices bee by and by in the grauntee by force of the fyne, but yet the lorde maye not dystrayne for any parcell of his seruices without atturnemẽt But yf the tenaunt dye his heyre beyng within age the Lorde shall haue the warde of the bodye of the heyre, and of the lande, &c. Howbeit that he neuer atturned For this that the seygniory was in the graunt mayntenant by force of the fyne. And also in some case yf the tenaunt dye without heyre, the lord shal haue the tenauncy by way of eschete. In the same maner it is yf a man graunt the reuercyon to his tenaunt for terme of life to another by fin the reuercion passeth not to the grauntee. by force of the fyne, but the grauntee shal neuer haue accion of waste without attournement. &c

But

But yet yf the tenaunt for terme of lyfe alien in fee the grauntee may enter. &c. For this that the reuercion was in him by force of the fine, and suche alienacion was to his disheneryteaunce. But in this case where the lord graunteth the seruices of his tenaunt by fyne, yf the tenaunt dye, his heyres beyng of full age the graunte by the fyne shall not haue the relefe nor neuer shall distrayne for the relyef excepte there had bene an attournement of the tenant that dyed. &c. for of such thynges that lyeth in dystresse vpon the which a writ of repleguare is sued. &c. a manne ought to auow the taking good, and ryght wyse. &c there ought to bee attournement of the tenaunt. Howbeit that the grant of such seruices be by fyne. But to haue warde of landes, and tenementes so holde during the noneage of the heyre or of them to haue by waye of escheate there nedeth not anye dystresse. &c. But an enter in the lande by force of the ryght of the seignioury that the graunt hath by force of the fyne. &c.

¶ Also in auncyent boroughes or Cytyes wher tenementes within the same boroughes or cities, been deuisable by testament by the custome, and the vse. &c. if in suche borough or citie a man be seased of rent seruice or of rent charge, and he deuiseth such rent or seruice to another by his testament and dyeth. &c. In this case he to whom the deuyse is made maye dystrayne for the rent or the seruices behinde, howbeit that the tenaunt neuer attorned. In

The same maner it is, where a man letteth suche tenementes deuysable to another for terme of lyfe, or for terme of yeares, and deuyseth the reuercyon by his testamente to another in fee or in fee tayle and dyeth, and anone after that the tenaunt maketh waste, he to whome the deuyse was made shal haue a writ of waste howbeit that the tenaunt neuer attourned, & the cause is for this that the wyll of the deuysour made by the testamente shall bee parfourmed after the intent of the deuisour, and so the effect of thys lyeth vpon the atturning of the tenaunt. &c. When parcase the tenaunt would neuer attourne, then the wyll of the deuisour should neuer bee parfourmed, & therfore the deuise shall distrayne or haue an accio of waste. &c. without attournement, for if a mā deuyse suche tenementes to another by hys testament (habendū sibi in perpetuum) and dyeth and the deuise entreth he hath a fe simple, causa qua supra and yet yf a dede of feoffement wer made to hym by the deuisour of the same tenement (habendū et tenendū sibi in perpetuū) yf ryuere and seysin were neuer there vppon made, he shall haue none estate but for terme of lyfe &c.

Also yf a manne seased of a Manoure, whyche is parcell in demeane and parcell in seruices and thereof bee dysseyled but the tenaunte with holden of the Manour, neuer attourne to the disseisour in this case howbeit that the disseisor die. &c & his heire is in by dis-

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cent yet may the disseisi dystrayne for the rent beyng behynde and haue the seruice but if the tenauntes come to the dissepsour and saye we become your tenauntes. &c. or otherwyse may by attournement to hym. &c. and after the dissepsour dyeth seased. &c. then the disseisy maye not dystrayne for the rent, for thys that all the maner descendeth to the heyre of the disseisour But yf one hold of me by rent seruice which is a seruice in grosse and another that no right hath claymeth the rent and receiueth and taketh the same rente of my tenaunt by coaccion of dystresse or by other forme and so disseaseth me by takyng suche rente, howbeit that suche a disseisour, dye seased by suche takyng of the rent yet after his death I may well dystrayne for the same rente beyng behynde before the death of the disseysour, and after his death and the cause is for this, that suche is not my disseisour but by election at my will for howbeit that he take the rent of the tenãt I maye at all times distrayne my tenaunt for the rent behynde et cetera so it is to me but as I will suffer the tenaunt to be by so much tyme behynde of payemente to me of the same rente, for the payment of my tenaunt to another to whome he ne ought to paye is no dyssesyn to me nor that not putte me oute of my rente wythoute my will and election, for howe bee it that I maye haue assyse agaynst suche a taker et cetera, yet thys is at my election yf I will take hym as

my disseysour or not so that suche discentes of rentes in grosse ne putteth not out the lordes fro their dystresse but that at eche tyme they maye well dystrayne for the rent behynd, and in this case yf after the decease of hym that so wrongfully take the rent. I grant by my dede the seruices to another and the tenant attorneth, this is good ynough, and the seruyce by suche graunt, and attournement incontinent be in the grauntee. &c. But otherwyse it is, where the rent is parcel of the maner and the disseasour dyeth seased of the whole maner, as in the case beforesayde.

¶ Discontinuaunce. Cap. xi.

Discontinuaunce is an auncyent woorde in the lawe and hath diuers sygnifications. &c but as to one entent it hath suche a sygnification, that is to saye where a man hath alienede to another certayn landes or tenementes and dyeth and another hath right to haue thesame landes or tenementes, but he ne may enter in them because of suche alienation. &c. As yf an abbot seased of certayn landes and tenementes in fee, and he alieneth thesame landes and tenementes to another in fee tayle or for terme of lyfe, and the abbot dyeth his successour may not enter in thesame landes or tenementes, howbeyt that yf that he hath ryght to haue the as in the ryght of the house, but he is putte to his accion to recouer thesame landes or tenementes

mentes whiche is called a writ de ingressu sin assensu capituli.

¶ Also yf a manne seased of lande as in the ryght of hys wyfe. &c. and thereof enfeoffeth another. &c. and dyeth the wyfe ne maye not enter but she is put vnto her accion the whiche is called cui in vita.

¶ Also yf tenaunt in the tayle of certayne lande and therof enfeoffe another. &c. and hath yssue and dyeth. &c. his issue maye not enter in the lande, howbeit that he hath ryght and tytle to that but that he is put to his acciō that is called a formedon in discendre.

¶ Also yf there be tenaunt in the tayle and the reuerc̄ is to the donour, and to his heires yf the tenaunt make a feoffement. &c. and dyeth without issue, he in the reuercion maye not enter, but is put to his accion of formedō in the reuerture, and in the same maner it is where the tenaunt in the tayle of certain land where the remainder is to another in the tayle or to another in fee, yf the tenaunt in the tayl alieneth in fe or in fe taile. &c. & aft dyeth without issue they in the remaindre may not enter, but be put to their writ of formedon in the remaindre. &c. and for this that by force of suche feoffem̄t & such alienacions in the cases afore sayd & in like cases they which hauetytle and right after the death of such a feoffor or alyenor may not enter; but be put to their accions, vt supra. Therfore such feoffements and alyenacions be called discontinuaunces.

¶ Also

¶ Also yf tenant in the tayle be disseased & he releaseth by his dede to the dissey.or & to hys heyres all the ryghte that he hath in the same lande. this is no discontinuaunce for thys that nothyng of ryght passeth to the disseisour but for terme of lyfe of the tenant in the tayle that made there lease.&c. But by the feoffement of tenaunt in the tayle a fe symple passeth by the same feoffement by force of lyuere of seysin &c.but by force of a release passeth by the same feffement by force of liuere of seisyn.&c.but by force of a release passeth but the ryght that he maye lawfully and ryghtfully release without hurte or damage to other parsons which therto haue right after his decease.&c.and so it is a gret diuersitie betwene a feoffement of the tenant in the tayl & a relese of ye tenant in the tail. But it is sayd ye yf tenant in the taile in this case release to the disseasour & bindeth him & his heyres to warrantise.&c.and dyeth,and this warrantye descendeth to his issue,then that is a discontinuaunce because of warrantise.&c.But if a man haue issue a sonne by hys wyfe dieth and after he taketh another wife and the tenementes be geuen to hym and his seconde wyfe,and to the heyres of theyr twoo bodyes engendred, and they haue yssue another sonne, and than the seconde wyfe dyeth, and after the tenaunt in the tayle is dysseysed and he releaseth to hys dysseisour all hys right et cetera, and byndeth hym and hys heyres vnto warrantyse, and dyeth, thys is no dyscontinuaunce

to the issue in the tayle by the seconde wyfe but he maye well enter. &c. for thys that the warrantyse descended to hys elder brother, that hys father hadde by his fyrst wyfe. In the same maner where tenementes be descendable to the younger sonne after the custome of boroughe Engly be entayled. &c. and the tenaunt in the tayle hath yssue two sonnes & is disseased and he releaseth to his disseasour all his right with warrantise and dyeth, the ponger sonne maye enter vpon the disseysour notwithstandyng the warrantyse, for this that the warrantise descendeth to the elder sonne, for alway the warrantise descendeth. &c. to hym that is heire by the common law.

¶ Also yf an abbot bee disseased, and he releaseth to the disseisor with warrantise, this is no discontinuaunce to his successour, for this that nothyng passeth by this release but the ryght that he hath duryng the tyme that he is abbot, and this warrantyse is expired by his prouision or by his death.

¶ Also yf tenaunte in the tayle bee seased of certayne lande, and he letteth the same lande for terme of yeares by force of which lease the lessee is in possession to which possession the tenaunt in the tayle by hys dede releaseth all his righte that he hath in the same lande to the lessee and to hys heires for euer, thys is no discontinuaunce, but after the decease of the tenaunte in the tayle hys yssue maye well enter, for thys that by

suche release nothing passeth but for terme of lyfe of the tenaunt in the tayle. In thesame maner yf the tenaunt in the tayle confyrme the estate of the lessee for terme of certayne yeres to haue and to holde to him and to his heyres thys is a discontinuaunce for this that nothing passeth by such confirmacion, but the estate that the tenaunt in the tayle hadde for terme of his lyfe.

¶ Also yf tenaunt in the tayle by his dede graunt to another all his estate that he hath in the tenementes intayled to hym to haue & to holde all his estate to the other and to hys heyres for euer and delyuereth seysin accordyng. In this case the tenaunt to whom the alienacio was made hath none other estate but for terme of lyfe, and so it may well be proued that the tenant in the tail may not grant ne alien ne make any rightfull estate of the frank tenement to another parson but for terme of his owne lyfe. &c. for yf I geue certayne lande in fee tayle to a man, sauyng the reuercion to me, and after the tenaunt in the tayle enfeoffeth another in fe, the feoffe hath no ryght estate in the tenementes for two causes. One is for that by such feoffement my reuercion is discontinued which is a wronger acte & not a rightfull act. Another cause is if the tent dye & his issue sueth a writ of formedon against the feoffe, the writ shal say & also the declaracio y the feffe wrongfully hi defoyced &c. Ergo if he with wrog hi defoyced he had no right estate.

¶ Also

¶ Also yf lande be let to a man for terme of hys lyfe the remaynder to another in the tayle yf he in the remaynder wyll graunt hys remaynder to another in it by his dede, & the tenaunt for terme of lyfe attourneth, thys is no dyscontynuaunce of the remaynder.

¶ Also yf a man be tenaunt in the tayle of auowson in grosse or of common in grosse, yf he by his dede wyll graunt the auowson or the common to another in fee this is no dyscontynuaunce, for in such case the graunte hath no estate but for terme of the tenaunt in the tayl that made this graunt. &c. Note wel that such thynges as passe by waye of graunte made by dede, and not by act in the countrey. &c. Such graunt maketh no discontinuaunce as in the case aforesayde and other lyke cases. &c. And howbeit that suche thynges be granted in fe, by fyne leuied in the kynges court. &c. yet they make no discontinuaunce. &c.

¶ Also yf a man be seased in tayle of lãdes deuisable by testamẽt. &c. and he deuiseth it to another in fee, and dieth, and the other entreth this is no discontinuance, for this that no discontinuaunce was made in the lyfe of the tenaunt in the tayle. &c.

¶ Also if an abbot haue a reuercion or a rẽt seruice or a rente charge, and wyl graunt that reuercion rent seruice or rent charge to another in fe and the tenẽt attorneth. &c. Thys is no discõtinuance. In the same mañ it is wher an abbot is seased of auowlõ or of such thinges

that

that passe by way of graunt without liuere of seisin.&c

¶Also yf there be graunde father tenaunt in the tayle father and sonne, and the graund father is disseased by the father, and the father maketh a feoffement in fee without warrantyse and dyeth, and after the graundfather dyeth, the sonne maye well enter vppon the feoffe for thys that thys was no discontynuaunce in so muche that the father was not seased by force of the tayle at the tyme of the feoffement.&c. but was seased in fee by disseysin made to the graundfather.

¶Also yf a woman inherite haue an husbād within age, whiche maketh a feoffemente of the tenementes of the wyfe and dieth, it hath been questioned if the wyfe maye enter or not And it semeth to some men that the entre of the wyfe after the death of her husbande shal be lawful in this case, for when her husbande made such a feoffement.&c. he myght wel enter notwithstanding suche feoffement duryng the couerture, and he myght not enter in hys own right but in the right of his wife.&c. Ergo such right that he had to enter in the right of his wife.&c. that right of enter abideth to the wife.&c. after his decease, & it hath been sayde that if two iointenantz being withi age make a feffemt in fe & one of the childrē dieth & that other suruiueth, insomuche ỹ bothe chyldren might ent̄ iointly in their liues, this ryghte of ent̄ groweth al to hi ỹ suruiueth, & so he maye enter into the hole.&c.

¶Also

¶ Also the heire of the husband that made the fesfement within age may not enter, for thys ꝑ no right descendeth to such an heir in the cose aforesaid for this that the husband had neuer any thing but in the right of his wife. And also when a childe maketh a feoffement beyng within age, this shal neuer greue nor hurte hi but that he may well enter. ꝛc. And this shuld be against reason that such a fesfemente made by him that was not able to make such a fesfement shall greue or hurt other to toll other of theyr entrees. ꝛc. And for these causes it semeth to some that after the death of suche an husbande so being within age at the tyme of the feoffement. ꝛc. that hys wyfe maye well enter. ꝛc.

¶ Also yf a woman inheritrice taketh an husbande and hath issue a sonne, and the husband dyeth, & she taketh another husband, and that second husband letteth the land that he hath i the right of his wife to another for terme of his life, & after the wife dieth, & after the tenit to me of life surrendreth his estate to the second husband. ꝛc. Enquere if the sonne of the wife may entr or not in this case vpon the second husband during the life of the tenant for terme of life. ꝛc. But it is clere lawe in thys cause that after the death of the tenaunte for terme of life, the son of the wife continue may well entr, for this ꝑ the discontinuance ꝑ was made al only for tñ of life is determined. ꝛc. by the death of the same tenāt for terme of life. ꝛc

¶ Also

¶ Also yf the parson or vicar of a churche gyven certayn landes or tenementes parcell of his glebe. &c. To another in fee and dyeth or resygneth. &c. his successour may well enter. Notwithstandyng suche alienacion as it is sayd in a Nota. Anno. ii. H. iiii. Termino Michaelis quod sic incipit nota quod dictum fuit pro lege. In a wrytte of accompte brought by the mayster of the colege that yf a parsone or a vycare graunt certayne landes that is of the ryght of hys churche to another and dyeth or chaunceth that his successour maye enter. And I trowe that the cause is for this that the parson or vicare that is sealed. &c. In ryght of the symple dwellyng in none other parson. And for this cause his successour maye well enter, notwithstandyng suche alienacion. &c. for a bishoppe maye haue a wryt of ryght of tenemẽtz of ryghte of hys Bysshoppryche, for thys that the ryghte of fee symple abydeth in hym and in hys chappter, and a Deane maye haue a wrytte of ryghte et cetera, for thys that the ryghte abydeth in hym and his chapiter, and an abbot maye haue a wrytte of ryght, for this that the right abideth in him, and in hys couent, et sic de aliis casibus consimilibus. &c. but a parsone or a vycare maye not haue a wrytte of ryght. &c, but the hygheste wrytte that he maye haue is a wrytte, de iuris vtrum the whyche is a great proofe that the ryghte of fee symple is in obeyaunce. that is to saye all onely in the remembraunce entendemente

and

and consideration of the lawe, for me semeth that such a thinge in such a ryght that is sayd in diuers bookes to be in by obeysaunce is as muche to saye in latyn. ℣. talis res vel tale rectum que vel quod non est in homine ad tñc superstite sed tãto modo est et cõcistit in considerat̃one et intelligentia legis. ꝛc. et quidem alii dixerunt talem rem aut tale rectum fore in nubibus. ꝛc.

But I suppose that they vnderstand by these wordes in nubibus. ꝛc. I haue sayed before.

¶ Also if a parson of a churche dye, nowe the franke tenemẽt of the glebe of the parsonage in no man duryng the time that the parsonag is voyde, but is in obeysaunce, that is to say, in consideration and intelligence of the lawe, tyll another be made parson of the same churche, and immediatly when an other is parson the frankatenement in dede is to hym as successoure.

¶ Also some men paraduenture wyll argue and saye, that so muche that the parson wyth the assent of the patrone and ordinarye maye graunt a rent charge out of the glebe of his parsonage in fee, & so charge the glebe of the parsonage perpetuallye. Ergo they haue fee simple, or two or one of them hath fee symple at the leaste. ꝛc. to this it may be aunswered that it is principle in lawe, that of euery land there is a fee symple in some man, or elles the fee symple is in obeysaunce. ꝛc. And another principle is, that euery lande of fee simple,

&c. may be charged wyth a rente charge in fee, by one way or by another. &c. and whan suche rent is graunted by the dede of the parson the patron and the ordinarye in fee, none shall haue no preiudice or losse by force of such graunt. But the grauntours in their liues. and the heyre of the patron, and successour of the ordinary after their deceases, and after suche charge if the parson dye, his successour may not come to the sayde churche to be parson of the same churche by the lawe. But by presentement of the patron and admission and institution of the ordinary. &c. And for this cause it behoueth that the successour holde him content and agreed with that whiche his patron and ordinary lawfully haue done before. But the cause that suche rente charge is gone for thys that they whiche had entred in the said churche, that is to saye, the patron after the lawe temporal, and the ordinary after the lawe spirituall were assented or parties vnto suche a charge. &c. thus semeth the very cause that such glebe may be charged in perpetuite. &c.

¶ Also if a bysshop alyene landes whiche ben parcell of hys bysshoppriche, and dyeth, this is a discontinuaunce to hys successoure, for thys that he ne maye not enter, but is put to hys writ. De ingressu sine assensu capituli. &c.

¶ Also if a Deane alyen lande parcell of his Deanrye and dyeth hys successour ne may not enter, but he may haue a writ. Et ingressu sine assensu episcopi et capituli. &c.

But if the Deane, and the chapitre haue land to them, and to their successours in commen. &c. Howe be it that the Deane alyen suche landes, his successoures maye well enter for this that the franche tenemente at the tyme of the alyenacyon was as well in the Chapitre as in the deane. But where the Deane is sole sealed as in right of his deanry, than such alienacion is discontinuaunce to his successoure, as it is afore sayde. Also some men will argue and saye that if an Abbotte and his couente be seased in their demeane, as of fee of certaine lande to them and to their successors &c and the Abbot without assente of hys Couente alieneth the same lande vnto an other, and dyeth, this is a discontinuaunce to his successours. &c. and by the same they will say, that where a Deane and a chapitre be seased of certaine lande to them or to their successoures, if the Deane aliene the same landes, &c. this shall be a discontinuaunce to his successours. So that his successour ne maye not entre. &c. To this maye be answered, that there is great diuersitie betwene the sayde two causes, for whan an Abbote, and the couente be seased. &c. yet if they bee dissey sed the Abbotte shall haue assyse in hys owne name wythoute the nampnge of hys Couente. &c. And if a manne maye or will sue a Precipe quod reddat of the same Landes whan they bee in the handes of the Abbotte and hys Couente, it behoueth that such an

accion be sued agaynst the Abbot onely without nampng of the couent.&c. For this that al they be dead parsons in the lawe, saue onelye the Abbot that is Soueraygne.&c. and this is cause of the soueraygntie.&c. for elles he shold be as one of the other monkes of the couent.&c. But the deane and the chapitre be no dead parsons in the lawe.&c. For eche of them may haue an Accion by him selfe in diuers cases, and of suche landes or tenementes which the Deane and chapitre haue in commune.&c if they be diseased, that the Deane and the chapitre shall haue allyse, & not the deane alone, and if an other wyll haue an Accion reall of such landes or tenementes agaynst the deane &c. it behoueth hym to sue agaynste the deane and chapitre, and not agaynst the deane alone &c. and so appeareth great diuersitie betwene these two cases.&c.

¶ Also if the maister of an Hospitall discontinue certayne lande of hys hospitall, hys successours ne may not enter, but he is put vnto his writte. De ingressu sine assensu confirm et fororum suorum, and all such wrytes do plainly appere in the register. &c.

Remytter. Capi. xii.

REmytter is an auncient terme in the law, and it is where a manne hath two titles to lande or tenementes, that is to saye, of an elder tytle, and an other of the latter title, and he cometh to the lande by the latter tytle, yet the

the Lawe adiudgeth him to bee in by force of the elder title, for this that the elder title is the more sure title. and the more worthy title, and then whan a man is iudged in by force of the more elder title, this is vnto hym sayde a remitter, for this that the lawe shall admit to be in the lande by the elder title, as if the tenaunte in the tayle, discontinue the tayle, and after he disseaseth his discontinue, and so dyeth seased, where by the tenementes descēd to his issue, as to his colyn inheritable by force of the tayle, in this case this is to him to whō the tenementes descende, whiche hath tytle by force of the tayle, a Remitter in the tayle taken for that that the lawe shall put and adiudge hym to be in by force of the tayle, which is hys elder tytle, for if he shall be in by force of discent, then the discontinue maye haue a writte of entre vpon the disseasyn in the per, agaynst him and recouer the tenementes, and hys damages but in so muche that he is in by force of the tayle, the title and the intresse of the discontinue, is all vtterlye annulled and defeated. &c.

¶ Also if tenaunt in the tayle in fe osse in fee, hys sonne or hys colyn inheritable by force of the tayle, the whyche sonne or colyn at the tyme of feoffement is within age, and after the tenaunte in the tayle dyeth, and he to whom the feoffement was made in hys heyre by force of the tytle in the tayle, thys is a remytter to to the heyre in the tayle, to whom the feoffe-

ment is made. For howe be it that during the life of the tenaunt in the taile that made the feoffemente suche heire shall be adiudged by force of the feoffement, yet after the death of the tenaunte in the tayle, the heyre shall be adiudged in by force of the tayle. &c. and not by force of the feoffemente, and thoughe that suche an heire was of full age at the tyme of the deathe of the tenaunte in the taile that made the feoffemente, this maketh no matter if the heyre were wythin age at the tyme of the feoffemente made to hym, and if suche an heyre beynge within age at tyme of the feoffemente commeth to full age buynge the tenaunte that made the feoffemente, and so beinge of full age, he chargeth by hys dede the same lande wyth a comen of pasture, or wyth a rente charge, and after the tenaunte in the tayle dyeth. Nowe it semeth that the lande is discharged of an other estate in the lande, than he was at the time of the charg made, in so muche that he is in his remitter by force of the taile, and so the estate that he hadde at the tyme of the charge is vtterlye defeated. &c.

¶ Also a principall cause is, whye suche an heire in the cases aforesaide, and other cases semblable shall be layde in hys Remytter, is for this that there is no parson against whom that he maye sue his writ of formedon, for against hym selfe he maye not sue, and he maye not sue against nonother. for none other is tenaunte in the franke tenement, and for that

cause

cause the lawe adiudgeth him in his remytter, that is to saie, in suche p.ight as he had lawfullye recouered the same lande agayn.ste an other.

¶ Also if lande be tayled to a man, & his wife, and to the heire of their two bodies engēdred the which haue issue a daughter, and the wife dieth, and the husbande taketh another, and hath issue an other daughter, and discontinueth the tayle, and after he dissey.eth the discontinue, and so dieth seased, now the lande descendeth to the two daughters. In this case as to the elder dough.er that is inheritable, this is a remytter, but of the halfe, and as to the other halfe, she is put to her action of formedon against her sister, for in this case two sisters be not tenauntes in percenary, but be tenaunts in cōmen, for this that they be in by diuers titles, for the one sister is in her remitter by force of the tayle, as to that that vnto her belongeth, And the other sister is in as to that, that belongeth to her in fe simple by the discent of hir father. In the same maner it is if the tenaunt in the tayle enfeoffe his heyre apparaunt in the tayle being the heyre within age, and another iointenaunt in fe, and the tenant in the tayle dieth. Now the heire in the tayle is in his remytter as to the half, & as to ỳ other half he is put to his writ of formō &c

¶ Also if tenāt in the tayle enfeoffe his heire apparāt, the heir being of ful age at time of ỳ feoffement & after the tenāt in tayle dieth this is

no remitter to the heyre, for thys that it was hys owne folye, that he beynge of full age wolde take suche feoffement. &c. But suche foly may not be adiudged in the heyre beynge wythin age, at the tyme of the feoffement. &c.

¶ Also if tenaunt in the tayle enfeoffe a woman in fee, and dyeth, and hys issue wythin age taketh the woman to wyfe, this is a remitter to the chylde, and the wyfe than hath nothinge, for this that the husband and the wife ben but one parson in the lawe. And in that case the husbande may not sue a writ of formedon, but if that he wyll sue agaynste hym selfe, the whiche shalbe inconuenient, and for that the lawe iudgeth the heyre in his remytter for this that no foly may be areted to him beynge wythin at the tyme of the spousayles. &c. And if the heyre be in hys remytter by force of the tayle, it foloweth by reason that the wyfe hath nothing. &c. for in so muche that the husbande and the wyfe be but one parson, the lande maye not be seuered by halfes, and for suche cause the husbande is in hys remytter of the whole. But otherwyse it is, if suche an heyre be of full age, at the tyme of the spousayles, that than the heyre hath nothinge but in the vyght of his wife.

¶ Also if a woman seased of certayne land in fee, taketh an husbande, the whyche alieneth the same lande to an other in fee, and the alienee letteth the same lande to the husbande and the wyfe for terme of their two lyues, sa-

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uynge the reuersion to the lessoure, and to the heyre, in thys case the wyfe is in hys remytter, and she is seased in dede in her demeane as in fee, as she was before, for thys that the takynge of estate shalbe adiudged in the lawe, the dede of the husbande, and not the dede of the wyfe, so that no follye maye be iudged in the wyfe that is couert in suche case. And in this case the lessour hath nothynge in the reuersion for thys that the wyfe is seased in fee. But in thys case if the lessour wyll sue an accion of waste agaynste the husbande and hys wyfe, for thys that the husbande hathe made waste, the husbande may not barre the lessor for to shewe thys that the takynge of estate made vnto hym and to hys wyfe made a Remytter to hys wyfe, for this that the husband stopped to saye thys agaynste hys feoffement, and owne reprysell of estate for terme of lyfe to hym and hys wyfe, and yet the lessour hath no reuersion, for thys that the fee simple is in the wyfe, so a manne may se a matter in this case, that a man shall be stopped by a matter in dede, thoughe no writynge by dede indented or otherwyse be therof made. But if an accion of waste, the husbande make defaut at the graunde distresse, and the wyfe prayeth to be receyued, and is receyued, she shall well shewe all the matter, and how she is in her remitter, and shall beare the lessoure of hys accion. For in euery case that the wyfe is receyued for defaut of her husbande, she shal pleade

and

and haue the same aduantage in pleadyng as she were a woman sole. And howbeit that the alienee made the lease to the husbande & his wyfe by dede endented, yet this is a remytter to the wife, and though the aliene yelded the same lande to the husbande and his wife by fine for terme of their liues, yet this is a remytter to the wyfe, for this that the wyfe couert that taketh estate by fine shall not be examined by the Justices. And here note well that when any thinge shall passe fro the wyfe that is couerte of husbande by force of a fyne the husbande and his consaunce of right to another. &c. or make a graunt and yelde to another. or release by a fine to an other. Et sic de similibus where the right of the wife passeth fro the wife by force of the same, the wyfe in all suche cases shalbe examined before that the fine be accepted. And such fines cõclude suche wiues couerte for euer. But where nothinge is moued in the fine, but all onely that the husband and the wife take estate by force of the same fine, this shall conclude the wyfe for this that in suche case she shall neuer be examined.

¶ Also if tenant in the tayle discontinue the tayle and hath a doughter and dieth, and the doughter beinge of full age taketh an husbād, and the discōtinuaunce maketh a lease of this to the husbād & his wife for terme of their liues, this is a remytter in dede of ꝯ wife, & the wife is in bi force of the taile, causa qua supra

Also

¶ Also if lande be geuen to the husband and his wife to haue and to holde to them and to the heyres of their two bodies begotten, and after the husbande alieneth the lande in fee, and taketh againe an estate to him and to his wife, for terme of their two liues. In this case this is a remytter in dede to the husband and the wife maugre the husbande, it may not be a remitter to the wife, excepte it be a remytter to the husbande, for this that the husband and his wife be but one parson in the lawe, though ꝑ the husband is stopped to claime, this to be a remytter in hun agaynste his alienacion and his owne reprisell as it is aforesaide.

¶ Also if Lande be geuen to a woman in the tayle, the remaindre to another in the tayle, the remaindre to the thirde in the tayle, the remaindre to the fourthe in fee, and the wyfe taketh an husbande, and the husbande discontinueth the lande of the wyfe, by this discontinuaunce all the remayndres be discontinued. for if the wife dye without issue, they in the remayndre shall haue no remedye, but to sue their writtes of formedon in the remayndre whan they come to their tyme. &c. But if after suche discontinuaunce estate bee made to the husbande and his wyfe for terme of their two lyues, or for terme of an others life, or an other estate. &c. for this that this is a remitter to ꝯ wife, this is a remitter to al those in the remayndre. &c. for after this that the wyfe that is in her remytter dyeth wythout

out issue they in the remaynder may enter. &c. wythout anye accion or sute. &c. In the same maner it is of them which haue the reuersion after such tayle. &c.

¶ Also if a man let a house to a woman for terme of her lyfe, sauyng the reuersion to the lessoure, and after one sueth a faynte and false accion agaynste the woman, and recouereth the house agaynste her by defaute, so that the woman may haue agaynst hym a writ. Quod ei deforciat, after the Statute of westm the second, capitulo. iiii. now is the reuersion of the lessoure discontinued, so that he ne may haue no accion of waste. But in thys case if the woman take an husband, and he that recouereth letteth the house to the husbande and hys wife for terme of their two liues, the wyfe is in her remitter by force of the fyrst leale. And if the husbande and the wyfe make waste, the fyrste lessour shall haue against hym a writ of waste for thys, that in so muche that the wyfe is in her remitter, he is remitted to his reuersion. But it semeth in thys case if he that here cometh by the false accion, wyll bryng another writ of waste agaynste the husbande and hys wyfe, the husbande hath no remedy agaynste hym, but to make defaut at the great distresse. &c. And to cause the wife to be discerued and to pleade the matter agaynst the second lessor, and to sweare that the accion by which he recouered, was false and fayned in the lawe. & so the wyfe may barre. &c.

Also

¶ Also if the husbande discontinue the lande of his wife, and after taketh estate to him and to his wyfe, and to the thyrde man for terme of their lyues, or in fee, thys is a remytter to the woman, but as to the moyte. And as for the other moyte it behoueth her after the death of her husbande to sue a Cui in vita.

¶ Also if the husbande discontinue the lande of his wyfe and go ouer the sea, and the discontinuee let the same lande to the womanne for terme of lyfe, and deliuer to her seasyn, & after the husbande cometh and agreeth to that yeuereth her seasyn, thys is a remitter to the woman, and yet if the woman had ben sole at the tyme of her lease made to her, thys should be to her a Remytter, but in so muche as she was couert baron at the tyme of the lease, and the lyuere of seasyn made to hyr, though that she onely take the lyuere of seasyn, thys was a remytter to her, because a womanne couert shall be abiudged as an infante within age in such case. &c. Enquyre in thys case if the husbande when he commeth agayne will disagre to the lease and lyuere of seasyn made to hys wyfe in hys absence if thys shall put the woman fro her remytter.

¶ Also if the husbande discontinue the tenementes of hys wyfe, and the discontinuee is disseased, and after the disseasoure letteth the sayde tenementes to the husbande & his wife for term of lyfe, thys is a remytter to the wife but if the husband, and the wyfe were of coupn

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et conſent that the diſſeyſin ſhoulde be made, than it is no remytter to the wife, bicauſe ſhe is a diſſeyſoureſſe. But if the huſbande were of coupn and conſent to the diſſeyſyn, and not the wife, then ſuch leaſe made to the wife is a remytter, bycauſe that no defaute was in the wyfe.

¶ Alſo if ſuch a diſcontinuee had made eſtate of free houlde to the huſbande and the wyfe made by endenture vpon condicion ſ. reſeruinge to the diſcontinuee a certaine rent, and foꝛ defaute of payment a reentre, and bicauſe that the rente is behinde, the diſcontinue entreth of this entre the woman ſhall haue aſſyſe of nouel diſſeyſin after the death of her huſbande agaynſt the diſcontinuee, bicauſe that the condicion was wholly adnulled, in ſo much as the woman was in her remytter, yet the huſbande with his wife coulde not haue aſſiſe bycauſe the huſbande is ſtopped.

¶ Alſo if the huſbande diſcontinuee the tenementes of his wyfe. and taketh eſtate againe foꝛ terme of his lyfe, the remayndꝛe after hys diſſeaſe to his wyfe foꝛ tearme of her lyfe, in this caſe, this is no remytter to the wife duringe the lyfe of her huſband, bicauſe that duringe the life of the huſbande, the wyfe hathe nothing in the free hoide but in this caſe the wife ouer line the huſband, this is a remitter to the wife bicauſe that a fre holde in lawe is fallen vpon her maugre her will, ſ in ſo much that ſhe can haue no accion agaynſte none o:

ther parson, and agaynst herself she can haue no accion, therfore she is in her remytter. For in this case though that the woman enter not in the tenementes, yet a straunger that hathe cause to haue Accion maye sue his accion against the woman of the same tenementes bicause she is tenant in lawe, though she be not tenaunte in dede, for tenaunte of franktenement in dede is hee, that if he be disseysed of franktenement may haue assise, but the tenāt in the lawe before his entre shall haue no assise, and if a man feyfed in fee of certayne lād hathe issue a sonne whiche taketh a wife, aud the father dyeth seysed, and after the Sonne dieth before anye enter made by him into the lande, the wyfe of the sonne shall be endowed in the lande, and yet he had no franke tenement in the dede, but he had a fee and a frank tenement in lawe, and so note wel that a precipe quod reddat, may as well be mayntened against him ẏ hath the frāktenemēt in law, as agaynst him that hath franktenement in dede.

¶ Also if a tenaunt in the tayle hawe issue. ii Sonnes of full age, and he letteth the tayled lande to the elder sonne for terme of his lyfe, the remayndre to the yonger sonne for terme of his life, and after the tenaunt in the tayle dieth. In this case ẏ elder sōn is not in his remitter bicause he toke estate of his father but if the elder son die without issue of his body thē this is remitter to the yonger brother bicause he is heyre in the taile and a franketenement

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in lawe, is fallen vpon him by force of the remaynder, and there is none agaynste whome he may sue hys action. &c. In the same maner it is where a man is disseased and the dysseysour dyeth therof seased, and the tenementes discende to his heyre and the heyre of the disseasour maketh a lease to a man of the same tenementes for terme of lyfe the remaynder to the disseasour for terme of lyfe or in tayle, or in fee, and the tenaunt for terme of life dyeth. Nowe this is a remytter to the dysseasy. &c. Causa qua supra.

¶ Also if tenaunt in the tayle enfeoffe his son and an other of the tayled lande in fee, and ly-uere of seasyn is made to the other accordyng to the dede, the sonne not knowynge therof, nor agreynge to the feoffement, and after he that toke the liuere of seasyn dyeth, and the sonne occupieth not the lande nor taketh any profite of the lande durynge the lyfe of his father, and after the father dyeth, nowe this is a remytter to the sonne, because the freholde is fallen vpon hym by the survyuour and no defaut was in hym, because he neuer agreed. &c. In the lyfe of hys father, and there is non agaynst whom he may pursue his writ of Formedon. &c. For if a man be disseased of certain lande, and the dysseysour maketh a dede of feoffement, wherof he enfeoffeth. B. C. and. D. And the liuere of seysyn is made to B. and C but D. was not at the liuere of seysyn nor neuer agreed to the feoffement nor neuer wold,

take

take the profites. &c. And after B. and C. dye, and D. ouer liueth them, and the dysseisi bringeth his writte, sur disseisin in the per, against the same shall sue all the matter and how that he neuer agreed to the feoffement, and so he shall discharge hym selfe of damages so that the demaundaunt shall recouer no damage against hym though that he be tenant of frank tenement of the lande. And yet the statute of Glocester wyll that the disseisi shall recouer damages on a writ of enter grounded vppon the nouell disseysyn against hym that is found tenaunt. And this is a proofe in the other case that in so muche as the title in the tayle cometh to the franktenement & not by his dede nor by his agrement that after the deth of his father this is a remitter to hym, insomuche y he can sue an accion of formedon against none other parson.

Also yf an abbat alyene the lande of hys house to another in fee, and the alyen by hys dede chargeth the lande with a rent charge in fee, and after the alien enfeoffeth the abbot with warrence to haue and to hold to the abbot and his successours for euer, and after the abbot dyeth, and another is chosen and made abbot. In this case the abbot that is the successour, and hys couent bee in the per remitter, and shall holde the lande discharged, because that the same abbot cannot haue anye accion of writ of enter. Sine assensu capituli of the same landes against none other

parsone. In the same maner it is where a bysshop or a deane or other suche parsons alyen. &c. without assent. &c. And after the bysshoppe taketh estate agayne of the sayde lande by ipcence to him, and to his successours, and after the bysshop dyeth his successour is in his remitter as in the right of his church, and shall defete the charge. &c. causa qua supra.

¶ Also if a man sue a false accion agaynste tenaunt in the tayle, as if a manne wyll sue against him in wryt of enter in the post, supposyng by his wrytt that the tenaunt in the tail had not his entre but by A. of B. that disseased, the graundfather of the demaundant, and that is false, and he recouereth against the tenaunt in the tayle by defaute, and sueth execucion, and after the tenaunt in the tayle dyeth, his issue maye haue a wryt of Formedon agaynste hym that recouered and yf he wyll plede the recouere agaynst the tenaunt in the tayle, the yssue maye sate that the sayd A. of B. disseased not the graunde father of hym that recouered in the maner as his wrytt supposeth and so he shall falsefye his recouere. Also suppose that that was true that the sayde A. of B. dysseased the graunde father of the demaundaunt that recouered, and that after the dysseysyn the demaundaunte or his father, or his graundefather, by a dede hadde released to the tenaunt in the tayle all the ryght that he hadde in the lande. &c. And this notwythstandyng he sueth his wrytt of enter in the post

agaynst

agaynſt the tenaunt in the tayle in the maner as is afore ſayde, and the tenaunt in the taile pleadeth to hym that the ſayde A. of B. diſſeiſed not his graundfather as his wryt ſuppoſeth, and vpon thys they be at iſſue, and the iſſue is founde for the demaundaunt whereby he hath iudgement to recouer and ſueth execucion and after the tenaunt in the taile dieth his iſſue may haue a wryt of formedon againſt hym that recouered. And yf he wyll plede the recouere by accion tryed againſt his father tenaunt in the tayle, then he may shewe and plede the releaſe made to his father, and ſo the accion that was ſued was fayne in the law &c. And it ſemeth that fayne accyon is almuch to ſaye in Engliſhe, fayned accyon, that is to ſaye, ſuche accyon that though the wordes of hys wryte be true yet for certayne cauſes he hath no cauſe nor tytle by the law to recouer by the ſame accion And falſe acc is where the wordes of the writ be falſe and in the two caſes beforeſayde yf the caſe wer ſuch that after ſuch a recouere, and execucio therof made the tenaunt in the tayle has diſſeiſed hym that recouered and thereof dyed ſeaſed whereby the lande alſo deſcended vnto hys yſſue this is a remitter to the yſſue and the yſſue is in by force of the tayle, and for that cauſe I haue putte theſe two caſes beforeſayde to enfourme thee my ſonne, that yſſue in the taile by force of a diſcente made to hym after a

recouere, and execucion therof made: agaynste his auncester may be as well in hys remitter as he should be by dyscent made to hym after a dyscontinuaunce made by his ancester of the tayled landes by feoffement in the countrey or otherwyse.

¶ Also in the same case aforesayd yf the case wer such that after the demaundant had iudgement to recouer agaynst the tenaunt in tayle, and the same tenaunt in the tayl died before any execucion had agaynst hym where by the tenementes descende to his yssue, & he that recouered such a scire facias to haue execucion of the iudgement agaynst the issue in the taile the issue shall plede the matt as before is sayd and so shall proue that the recouere was false or fayne in the law, and so shall barre hym to haue execucion of the iudgement. &c.

¶ Also yf tenaunt in the tayle discontinue the tayle and dye, and his issue bringeth a writ of Formedon against the discontinue being tenaunt of the freehold of the lande, and the discontynue pleadeth that he is not tenaunte but otherwyse disclaymeth fro the tenancy in the lande, in this case the iudgement shalbee that the tenaunt goe without day and after suche iudgemente the issue in the tayle that is demaundaunt maye well enter in the land notwithstandyng the dyscontynuaunce. And by suche enter he shalbe adiudged in his remytter, and the cause is because that yf any mane sue a precipe quod reddat agaynst any tenaunt

of

of free holde, in whiche accion the demaundāt shall not recouer damages, and the tenaunte pledeth not nontenure but otherwyse dysclaymeth in the tenaunce, the demaundaunt maye not auerre his wryt that he is tenaunt as the wryt suppoleth. And for that cause the demaundaunt after that, that iudgement is geuen that the tenaunt shall goe without daye, maye enter into the tenementes demaunded, the whiche shall bee as great aduauntage to hī in the law as yf he had iudgement to recouer agaynst the tenaunt. And by suche enter he is in his remitter by force of the tayle, but by wryt the demaundaunt recouereth damages agaynst the tenaunt, the demaundaunt may auerre that he is tenaunt as the wryt supposeth, and that for the auauntage of the demaūdaunt for to recouer his damages, or elles he shall not receiue his damages the which damages be or wer geuen hym by the law.

¶ Also yf a man be disseased and the disseysour dye his heyre beyng in by discent now the entre of the disseisi is taken away. And yf the dysseysy bryng his wryt of enter vpon the dysseisin in the par, agaynst the heyre, & the heire disclaymeth in the tenaunce. &c. the demaundaunt may auerre hys wryt, that he is tenaunt as the wryt supposeth yf he wyll, for to recouer hys damages. But yet yf he wyl leaue the auerrement et cetera, he maye lawfully enter into the lande, because of the disclaymer, notwithstandyng that hys enter

before was taken away. And that was adiudged before my maister sir Robert Danby late chiefe iustice of the common place, and his cõpaignions.

¶ Also where the enter of a man is lawful though that he take estate to hym when he is of full age for terme of life, or in tayle or in fe, this is a remitter to him if such taking of estate be not by dede indented or by matter of recorde that shall conclude or stoppe hym. For yf a man be disseased and therof taketh estate of the disseisor without mede or by dede poll, that is a good remitter to the disseisi.

¶ Also yf a man let land for terme of lyfe to another which aliyeneth to another in fe, and the alienor maketh estate to the lessour, thys is a remitter to the lessour because hys entre was lawfull.

¶ Also if a man be disseised and the disseisor letteth the lande to the disseisi by dede poll or without dede for terme of yeres, wherby the disseisi entreth, this enter is a remitter to the disseisi. For in suche case where the enter of a manne is lawfull, and a lease is made to hym though that he clayme by wordes in the countrey that he hath estate by force of such lease or sayth openlye that he claymeth nothyng in the lande but by force of suche lease, yet thys is a remitter to hym, for suche clayme in the countrey is nothing to purpose, but if he claim in the court of recorde that he hath estate but by force of suche lease and not otherwise then

he

he is concluded &c.

¶Also yf two ioyntenauntes seased of certayn land yn fee the one being of full age the other within age be disseised, and the disseisor dieth seased & his issue entreth. the one of the ioyntenauntes beyng then within age, and after that he cometh to full age, the heyre of the disseisour letteth the lande to the same ioyntenaunt for terme of theyr lyues this is a remitter as to the halfe to hym that was within age because that he is seased of that moyte that belongeth to hym in fee, because his entre was lawfull. But the other ioyntenaunt hath in the other halfe but estate for terme of lyfe by force of the lease because his entre was taken away. &c.

¶warrantye. Cap. xiii.

IT is commonly sayd that there be thre maner of warrantres, that is to saye, warrantie lineal, warrantie collaterall. and warranty that begynneth by disseisyn. And it is to wyt that before the statute of Glocester all warrãties whiche descended to them whyche were heires to them that made the warrantie were barres to the same heires to demaunde anye landes or tenementes against those warrãties except the warranties that began by disseisyn. for such warrantie was neuer bar to the heire because the warranty began by wrong that is to say by disseisin.

¶ warranty that begynneth by disseysin is such forme. As wher ther is father and sonne, & the sonne doth purchase land &c. and letteth the same land to his father for terme of yeares & the father by his dede therof enfeoffeth another in fe, and byndeth him and his heyres to warranty, and yf the father dye where by the warranty descendeth to his sonne, this warranty shal not barre the sonne, for notwithstäding this warranty the sonne may well enter in the land or haue an assise agaynst the alyen yf he wyll, because the warranty began by disseisin. ffor when the father that had no estate but for terme of yeres made a feoffement in fe, this was a disseisin to his sonne of frankatenement that then was in the sonne. In the same maner it is if the sonne let vnto the father the land to hold at wyll and after the father maketh a feoffement with warranty. &c. And as it is sayd of the father so may it be said of euery other auncester. &c.

¶ In the same maner it is if tenant by elegit, tenant by statute marchant or tenaunt by statute staple make a feoffement in fee with warranty &c. this shal not barre the heir ỳ ought to haue the land because that such warranties begynneth by disseisin.

¶ Also yf wardein in chiualry or wardeyn in socage make a feoffement in fe or in fe taile for terme of life w̄ warranty. &c. Such warranties be no barres to the heires to whō the lād shal discend because that they begin by disseisin.

¶ Also

¶ Also yf the father and the sonne purchase certayn landes or tenementes to haue and to hold to them iointly. &c and after the father alyeneth the whole to another & bindeth him & his heires to warranty. &c. & after the father dyeth, this warranty shal not barre the sonne of the moite that belonged to him of thesame tenementes, because that as to the moite that belonged to the sonne the warranty beganne by disseisin.

¶ Also if A. of B. be seased of a mese &. F of. G. hath no right enter into thesame mese claymyng to hold the same mese to him and to hys heires but A. of B. then is contmually dwelling in thesame mese, in this cause the possession of the frankstenement shall bee alwaye adiudged in A. of B. & not in F. of G. because that in suche case where two be in one mese, or in other tenementes, & the one claymeth by one title & the other by another title the law shall adiudge him in possession that haue right to haue the possession of the same tenement. But in the case aforesayde yt F. of G. make a feoffement to certayn barretours and extorcioners in the countrey for to haue maintenance of them of the same mese by a dede of feoffement wyth warranty by force of which the said A. of B. dare not dwell in the same mese but goeth out of thesame mese, this warranty beginneth by disseisin, because that such a feoffemente was cause that the sayd A. of B. left the possessiō of thesame mese.

¶ Also

Also yf a manne that hath no ryght to enter in anothers tenementes entre into the sayde tenementes and incontinent maketh a feoffement to other parsons by his dede with warrantie and deliuer to them seisyn, thys warranty begynneth by disseisin, because that the disseisin and the feoffement were made as it were at one tyme. And that thys is law, ye maye see it in a plee. Anno. xxxi. E. iii. a writ of Formedon in the reuerrion.

Warrantye lyneall is where a manne seased of certayne lande in fee, maketh feoffement by hys dede to another, & bindeth him and his heyres to warranty, & hath yssue & dyeth & the warranty descendeth to hys yssue this is a lineal warranty. And the cause why this is a lineall warrantie. is not because ỹ the warranty discendeth from the father to his heire, but the cause is because that yf no such dede with warrantye had been made by the father than the tyght of the tenementes should discend to the heyre, and the heire should conuey the dyscent from the father, &c. For yf there be father and sonne, and the sonne purchase tenementes in fee, and the father disseaseth the sonne thereof and alyeneth it to another in fee by hys dede and by the same dede byndeth hym and hys heyres to warrante the same tenementes et cetera. And the father dyeth (nowe is the sonne barred to haue the sayde tenementes for he maye by no sute nor by any other mese haue the sayde tenementes because of the sayd

warranty.

warrantye. And that is a collaterall warrantye and yet the warrantye descended lyneally from the father to the sonne. But because that yf no suche dede wyth warrantye hadde bee made the sonne in no maner myght conueye the tytle that he hath of the tenementes from hys father to hym in so muche that hys father hadde no estate nor ryght in the tenementes, therfore suche warranty is called collaterall warrantye. In so muche that he that made the warrantie is collaterall to the tytle of the tenementes, and that is as muche to saye that he to whom warrantye descended, coulde not conueye the tytle that he hadde in the tenementes by hym that made the warrãty i this case if no such warrãty had be made

¶ Also yf there bee graundefather, father and sonne, and the graunde father is dyssesed in whose possession the father releaseth by hys dede with warrantye et cetera. And dyeth and after the graunde father dyeth, nowe is the sonne barred of the tenemẽtes by the warrantye of his father, and this is called lyneall warrantye, because that yf no suche warrantye hadde bee made, the same myghte not haue conueyed the ryght of the tenementes to hym nor shewe howe he is heyre to the graunde father, but by meanes of the father. &c.

¶ Also yf a manne haue yssue three sonnes and is dyssesed and the elder sõne releaseth to the disseisour by his dede with warrantye. &c.

and

and dyeth without iſſue, and after this the father dieth this is a lineal warranty to the yõger ſonne, becauſe that though the elder ſonne dyed in the lyfe of the father, yet by poſſibility it myght be that he myght conuey to hym the tytle of the lande by hys elder brother. if no ſuch warranty had bee made. For it might be that after the death of the father the elder brother entred into the tenemẽtes & died without iſſue, and then the ponger ſonne ſhall conuey to hym the tytle by hys elder brother. But in thys caſe if the ponger ſonne releaſe with warranty to the dyſcyſour and dyeth without yſſue, this is a collaterall warranty to the eldeſt ſonne, becauſe that of ſuche lande as was to the other, the elder brother by no poſſibilitye might conuey to him the title by meane of the ponger brother.

¶ Alſo yf tenaunt in the tayle haue yſſue thre ſonnes and diſcontinue the tayle in fe, and the myddle ſonne releaſeth by his dede to the diſcontinue and bind him and his heires to warrantiſe. &c. and after the tenaunt in the tail die and the middle dieth without iſſue now is the elder ſonne barred to haue any recouere by a writ of formedon becauſe that the warrantye of the middle brother is collaterall to hym, in ſomuch that he may by no maner conuey to hi by force of the tayle any diſcent by the mydle brother, and therfore it is a collaterall warrãtye. But i this caſe the elder brother die without iſſue, nowe the ponger brother may wel

haue

haue a formedon to the descendre and recouer the same lande, because that the warranty of the myddle brother is lineall to the yongest brother, because it may be that by possibilitye the myddle brother may be seased by force of the tayle after the death of his elder brother, and then the yongest brother maye conuey by a tytle of discent by the myddle brother. &c.

¶ Also yf tenaunt in the tayle discontynue the tayle and hath issue, and dye and the vncle of the issue release to the discontinue with warrantye and dye without issue this is a collaterall warrantie to the issue in the tayle, because that the warrantye discendeth vpon the issue, which cannot conuey himselfe to the tayle by meane of his vncle.

¶ Also if tenaunt in the tayle haue issue. ii. doughters and dye, and the elder doughter entreth not into the whole and thereof maketh a feoffement in fee with warranty. and after the elder doughter dyeth without yssue, in this case the yonger doughter is barred as to the moyte, and as to the other half she is not barred for as to the motte that belongeth to the yōger doughter she is barred, because that as to the motte that belongeth to her she cannot conuey the discent by the meanes of her elder syster. And therefore as to that moyte. that is a collaterall warrantye, but as to the other moitye whiche belonged to her elder syster by the same elder syster the warrantye is no barre to the younger syster because that

that she may conceyue her discent as to that moyte that belonged to her elder by the same elder syster. And so as to that moyte that belonged to the elder sister the warrantye as to that is lyneal to the yonger sister. &c.

¶ And note well that as to hym that demaundeth fe symple by any of hys auncesters he shalbe barred by lyneall warrantie which dyscendeth vppon hym, except it be restrayned by some statute, but he demaundeth fee tayle by a wyrte of formedon in the descendre shal not be barred by lyneall warrantie, except he haue ynough by discent in fee symple by the same auncester that made the warrantie. but a collaterall warrantie is barre to hym that demaundeth fee, and also to hym that demaundeth fee tayle, without any other discent of fee symple except in cases that bee restrayned by the statute, and other cases for certayn causes as shalbe sayd hereafter.

¶ Also yf lande be geuen to a man, and to his heires of his body begotten the which taketh a wyfe. and haue issue a sonne betwene them, and the husbande discontynueth the tail in fee, and dyeth, and after the wyfe releaseth to the discontinuee in fee, with warrantie and dyeth, and the warrantie discendeth to the son. This is collateral warrantie, but if tenemẽtes be geuẽ to the husband and the wife and to the heires of their two bodyes begotten which haue issue a sonne, and the husband discontynueth the tayle and dyeth, and after the

wyfe

wyfe releaseth with warrantie and dieth thys warrantie is but a lyneall warrauntie to the sonne. for the sonne shal not be barred in this case to sue his writ of Formedon excepte he haue ynough by discent in fee symple by hys mother because that theyr yssue in a writte of Formedon ought to conuey to hym the ryght as heyre to his father & to his mother of theyr twoo bodyes begotten by fourme of the gyst. And so in suche case the warrantye of the father and the warrantie of the mother be but as lineal warrãties to the heire. &c. And note well that in euery case where a man demaundeth tenementes in fee taile by a writ of Formedon, if any of the issue in the tayle that had possession or that hath no possession make a warrantie. &c. yf he that sueth the wryt of formedon myght by any possibilitye by matter that might be in dede cõueide to hi by hym ẏ made the warrauntye by the fourme of the gyste. Thys is a lyneall warrauntye, and not collaterall.

¶ Also yf a manne haue issue three sonnes, and he geueth land to the eldest sonne to haue and holde to him to the heires of hys bodye begotten, and for defaute of suche yssue the remaynder to the myddle sonne to hym, and to the heires of his bodye begotten, and for defaute of suche issue the remaynder to the yõgest sonne. and to his heyres of his body begotten in thys case yf the eldest sonne dyscõtynue the tayle in fee and bynde hym, and his

heyres

heyres to warrantye to dye without issue, this is a collaterall warrantie to the myddle sonne and he shall be barred to demaunde thesame lande by force of the remaynder, because that the remaynder is hys tytle, & his eldest brother is collaterall to the title which begineth by force of the remaynder.

¶ In thesame maner it is if the middlesõne had thesame lande by force of the remaynder, because that his eldest brother made no dyscõtynuaunce but dyed without issue of hys body and after the myddle sõne maketh a dyscontynuaunce with warranty. &c. and dyeth without issue, this is a collateral warrauntye to the youngest sonne and also in this case yf anye of the sayd sonnes be disseased, and the father. ỹ made the gyft release to the disseysour all hys ryght. &c. with warrantie, this is a collaterall warranty to that sonne vpon whom the warrantie descended causa qua supra. And so note well that where a manne that is collateral to the title, &c. releaseth with warrantye that is a collaterall warrantie.

¶ Also if the father geue lande to his elder sonne to haue & to hold to him & to the heyres males of his body begotten the remainder to the second son. &c. yf the eldest brother aryen in se with warranty. &c. & hath issue female and dieth without issue male this is not a collaterall warrantye to the seconde sonne. nor shal not hurte hym of hys action by Formedon in the remaynder because that the warrantye

dyscendeth

discendeth to the doughter of the eldest sonne, and not to the seconde sonne. For euery warranty that discendeth, discendeth to him that is heire vnto him whiche made the warantye by the commen lawe.&c.

¶ Also if lande be geuen to a man and to hys heyres males of his bodye begotten, and for defaute of such issue the remaindre therof to his heires females of his bodye begotten, and after the donee in the tayle maketh a feoffement in fee with warenty accordyng and hath issue a sonne and a doughter, and dyeth, thys warenty is but a lineal warenty to the sonne to demaunde by writ of Formedon in the discendre. And it is but lineall to the doughter to demaunde the same lande by writ of Formedon in the remaynder, if her brother dye without heire male, because that she clayme th as heire female of the body of her father begotten. But in this case if her brother in hys life release to the discontinuee.&c. with warranty.&c. And after dye without issue. this is a collaterall warranty to the doughter, because that she can not conueye to her the right that shee hath by force of the remaindre by anre meane of discent by her brother, and therfore the brother is collaterall to the title of his sister, and therfore his warranty is collaterall.&c.

¶ Also I haue heard say that in the time of kinge Richarde the seconde there was a iustice in the commen place dwellyng in Kent, called Kirkby, that had issue diuers sonnes.

And hys entent was, that hys eldeſt ſonne ſhoulde haue certayne landes to hym and the heyres of hys bodye begotten, and for defaute of yſſue, the remaynder to hys ſeconde ſonne and ſo forth. And ſo the thyrde ſonne &cetera. And becauſe that he woulde that none of hys ſonnes ſhould alien or make warrantie for to barre or to hurte that other that ſhould be in the remaynder &c. He cauſed to be made an indenture to ſuche effect, that is to ſay that the landes and tenementes were geuen to hys eldeſt ſonne vpon thys condicion, that yf the eldeſt ſonne alened in fee tayle &c. or any of hys ſonnes alened &c. that then theyr eſtate ſhould ceaſe and ſhoulde be voyde, and that then the ſayd landes or tenementes immediatly ſhould remayne to the ſeconde ſonne and to the heyres of his body begotten, and that vpon the ſame condicion. &c. that if the ſecond ſonne alien &c. that then his eſtate ſhould ceaſe, and that than the ſame landes and tenemẽtes ſhould remayn to the third ſonne, & to the heyres of hys body begotten & ſo forth, the remaindre to other of his ſonnes and liuere of ſeiſin was made accordyng. But it ſemeth by reaſon that all ſuch remaynders in the forme beforeſayde be voyde, and of no value, and that for .iii. cauſes. One cauſe is becauſe that euery remaindre that beginneth by a dede, it behoueth that the remaynder be in him to whom the remaynder is tayled by force of the ſame dede whem the liuerey of ſeiſin is

ſin is made to hym that hath the franke tene-
ment. And ſuch remaynder was not at the ſe-
cond ſonne as the tyme of mutrey of leyſyn in
the caſe beforeſayd &c.

¶ The ſeconde cauſe is yf the fyrſt ſonne
alene the tenementes in fee then is the frāk-
tenement and the fee ſymple in the alyenee
and in none other, and if the donour had any
reuercion by ſuche alienacion, the reuercion is
diſcontinued, then though that by ſome rea-
ſon it may be that ſuche remaynder ſhall be-
gynne hys beyng and hys growyng. Immedi-
atly after ſuche alienacyon made to a ſtraun-
ger that hath by the ſame alienacion, franke-
tenement and fee ſymple, and alſo yf ſuch re-
maynder ſhould bee good, then myght he en-
ter vpon the alyence where he had no maner
of ryght before the alienacyon, which ſhould
be inconuenient. The third cauſe is when the
condicion is ſuch that if the eldeſt ſonne alie-
en &c. That hys eſtate ſhall ceaſe, or ſhall be
voyde. &c. then after ſuche alienacion &c. may
the donour entre by force of ſuche condicion
&c. as it ſemeth, and ſo the donor or his heires
in ſuch caſe ought more ſoner to haue the lād
then the ſecond ſonne that had no ryght be-
fore ſuche alienacion &c. and ſo it ſemeth that
ſuch remaynders in the caſe beforeſayde bee
voyde.

¶ Alſo at the common lawe before the ſta-
tute of Glouceſtre yf tenaunt by the curteſye
had alienedin fee with warranty accordant,

after his decease this was a barre to the heir &c. as it appeareth by the wordes of the same statute. But it is remedied by the same statu. that the waranty of the tenaunt by the curtesy shal be no barre to the heire, except he haue inough by discent by the tenaunt by the curtesye, for before the saide statute that was a collaterall warantye to the heyre, because he coulde not conuey anye title of discent to the tenementes by the tenaunt by the curtesy, but onely by his mother or other of his aunceſters &c. and that is the cause why it was collaterall waranty. But if a manne enherite take a wife, whiche haue issue a sonne betwene them and the father dyeth, and the sonne entreth in the land, and endoweth his mother, & after his mother alieneth that that she hath in her dower to an other in fee, with waranty accordynge, and after dyeth, and the warranty descendeth to the sonne, nowe the sonne shall be barred to demaunde the same Lande bycause of the saide warranty, bicause that such collaterall warranty of tenaunt in dower is not remedied by any statute. The same law is wher tenaunt for terme of life maketh an alienacion with warranty. &c. and dyeth, and the warranty descendeth to him that had the reuersion or the remaundre. &c. they shalbe barred by suche warranty. &c.

¶ Also in the saide case if it so were that whe the tenaunte in dower alyeneth. &c. the heyre was within age, and also at that time that the

warp

warranty descendeth vpon him he was within age, in this case the heyre maye after enter vpon the alyence notwithstandynge the warrãty discended.&c. bicause that no latches shall be adiudged in the heyre within age, that he entred not vpon the alience in the lyfe of the tenaunt in dower, but if the heyre was wythin age at the tyme of the alienacyon, and after he came to full age in the life of the tenaunt in dower, and so beynge of full age he entred not in the life of tenaunt in dower, and after the tenaunt in dower dyeth there paraduenture the heyre shal be barred by suche warranty, bycause it shall be accompted his folly that he beynge of full age, entred not in the life of tenaunt in dower.&c.

¶ Also it is spoken in the ende of the sayde statute of Glocester that speaketh of the alienacion with warrantie made by the tenaunte by the curtesy in suche forme.

¶ Also in the same maner the heyre of the woman after the death of her father and mother shall not be barred of Accion if he demaunde the heritage or the maryage of his mother by a writ of entre that his father alened in the tyme of his mother, wherof no fyne is leuyed in the kynges courte.&c. And so by force of the same statute if the husbande of the wyfe alyene the heritage or maryage of hys wife in fe with warranty.&c. by his dede in the country, this is clere lawe that this warranty shal not barre the heire except he haue inough by discen-

cente &c. But the doubt is if that the husband alyen the heritage of hys wyfe by fyne leuyed in the kynges courte with warrantie et cetera, if thys shall barre the heyre withoute any discent in value &c. And as so that I wil say here certayne reasons that I haue heard say in this matter I heard my maister syr Richard Newton late chiefe iustice of the common place sayde once in the same place, that such warranty that the baron maketh by fine leuied in the kiges court shal barre the heire though that he haue nothyng by dyscent, because the statute sayeth wherof no fine is leuied in the kinges court &c. And so by his opinyon thys warrantye by syne et cetera abideth yet a collaterall warrantie as it was at the common lawe not remedied by the sayde estatute because that the sayd estatute excepteth the alienacions by fine with warrantie. And some other haue sayd and yet say the cōtrarye and thys is theyr proofe, that as by the same Chapiter of the sayde estatute it is ordeyned that the warrantie of the tenaunt by the curtesye shall not barre the heyre excepte he haue by ynough discente &c. though that the tenaunt by the curtesye leui a fyne of the same landes with warrantie & cetera, as strongly as he can, yet thys warranty shal not barre ꝯ heyre except he haue assetz or ynough by discent &c. And I beleue that this is lawe and therfore they say that it should be inconuenient to vnderstand the statute in such forme

that

that a manne that hath not but in the ryghte of his wife may by fine leuied by hymselfe of the tenementes that he hath but in the right of his wyfe with warrantie &c. shal barre the heyre of the sayd tenementes without discent of the fee simple &c. where tenant by the curtesie can not doo it. But they haue sayde, that the statute shalbe vnderstande after the fourme, that is to say where the statute speaketh, wherof no fine is leuied in ꝑ kinges court this is to say where no lawful fine is rightfully leuied in the same kynges court ꝑ that is wherof no fine of the husband and his wyfe is leuied in the kinges court, for at the time of the making of the sayde statute euery state of landes or tenementes that any man or woman had that shoulde dyscende to hys heire was fee simple without condicion or vppon condicion in dede or in law. And because that such fine then might lawfully haue been leuied by the husband and his wife, and that the husband and the wyfe, and the heyres of the husbandes warrantie &c. such warrantie shuld barre the heyre &c.

¶ And so they say that this is the vnderstanding of the said statute, for if the husband and the wyfe made a feoffement in fee by dede in the countrey the heire after the deceale of the housebande and the wyfe shall haue a writ of entree Sur cui in vita ꝯ cetera, notwithstandyng the warrantie of the housebande. Then if no such exception was made in the

statute

ſtatute of the fyne ieuyed. &c. then the heyre ſhoulde haue the writ of entre. &c. notwithſtandyng the fyne ieuied by the huſbande and the wyfe becauſe that the wordes of the ſtatute before the exception of the fyne ieuied. &c be generally. &c. that is to ſay, that the heir of the woman after the death of the huſbande and the wife ſhall not be barred of action if he demaunde the heritage or the mariage of hys mother by a writ of entre that hys father alienedin the time of his mother. And ſo it ſhold be in the caſe of the ſtatute except ſuch wordes were, that is to ſaye, wherof no fyne is ieuied in the kynges courte. And ſo they ſaye that this to vnderſtand, wherof no fine by the huſbande and, the wife is ieuyed in the kynges courte the whiche is lawfully ieuied in ſuche caſe. ¶ For if the iuſtices haue knowledge that a man that hath nothynge but in the righte of his wyfe, wyll ieuye a fyne in his name onely they will not nor ought not to take ſuche fyne to be ieuyed by the huſbande onely wythout nampynge the wyfe, therfore enquyre of thys matter.

¶ Alſo it is to wytte that in ſuche wordes where the heyre demaundeth the heritage or marpage of hys mother, this woorde is a diſiunctyne, and is as muche to ſaye, if the heyre demaunde the heritage of hys mother, that is to be vnderſtande the tenementes that hys mother had in fee ſymple by diſcent or by purchaſe, or if the heyre demaund the marpage of

his

his mother, that is to saye, the tenementes that were geuen vnto hys mother in francke maryage.

¶Also where it is moued in diuers deedes these wordes in latin. Ego et heredes mei. &c. warrantizabimus et imperpetuum defendemus, it is to se what effect hath that worde defendemus in suche deedes. And it semeth that it hathe not the effecte of warrantise nor comprehendeth any cause of warrantyse, for if it shoulde be so that it taketh effect or cause of warrantyse, than it shoulde be put in some fynes leuyed in the kynges courte. And a man neuer sawe that these wordes defendemus was in any fyne but al onely this word warrantizabimus by whiche it semeth that thys verbe warrantiso maketh warranty, and is the cause of warantyse, and none other worde in our lawe.

¶Also if tenaunt in the tayle be seased of tenementes deuisable by testamente after the custome. &c. And the tenaunt in the tayle alieneth the tenementes to hys brother in fee, and hath issue & dyeth, and after his brother deuiseth by his testamente the same tenementes to an other in fee, and byndeth hym & hys heyres to warrantyse. &c. And dyeth wythout issue, it semeth that thys warrantye shall not barre the issue in the tayle if he will sue hys writ of Formedon, bycause that his warrãty discended not to the yssue in the Tayle, in so muche as the vncle of the issue was not bound

by

by force of the same warrantie in hys lyfe. And thereof that he coulde not warrant the land in hys lyfe, is in so much that the deuise could not take anye execution or effecte but after his decease, and in so muche that the vncle in hys lyfe was not holde to warrante, suche warrantise ne maye not discende from him to theyssue in the tayle &cetera. for no thing maye dyscende from the auncestre to his heire but the same that was in the auncestre. Also a warrantye maye not goe without the nature of tenementes by custome, but onelye after fourme of the common lawe. For if tenant in tayle be seised in tenementes in borough Englishe, where the custome is that al tenementes of the same borough ought to dyscende to the yongest sonne, and he discontinueth the tayle with warrantise &c. and hath issue two sonnes and dyeth seised of other landes and tenementes in the same borroughe in fee symple to the value and more of the tenementes tayled and so forth, yet the yongest sonne shall haue a formedon of the tenementes tayled, and shall not be barred by the warrantise of his father though ynough to him discended in fee simple fro the same father after the custome, for this that the warrantie discendeth vpon the elder brother that is in full life &c. and not vppon the younger sonne. In the same maner it is of collaterall warrantise made of suche tenementes where the warrantise dyscendeth to the elder sonne

&c. this

&c. this shal not barre the yonger sonne &c. In the same maner it is of tenemẽtes in the shire of Kente, whiche be called Gauelkinde, the whiche tenementes be departable among the brethren &c. after the custome & cetera, if anye suche warrantie be made by their auncestres suche warrantyẽ discendeth all onely to the heyre that is heire by the common lawe, and not to all the heyres which are heyres of such tenementes after the custome &c.

¶ Also if a tenant in tayle haue issue two daughters by diuers bentres, and dyeth, and the daughters entre and a straunger disceaseth them of the same tenementes, and one of the daughters releseth by her dede to the disseisour all her right and bindeth her and her heires to warrantise, & dieth without issue in this case the first ꝑ suruiueth may well enter & put out the disseisour of al the tenementes, for this ꝑ such warrãtise is no discontinuãce nor collaterall warrãtise to the sister that suruiueth, for this that they be of halfe bloud, & the one may not be heire to the other after ꝯ comon law. But otherwise it is where ther be daughters of tenantz in ꝯ tatle by one bẽter.

¶ Also if tenant in the taile letteth tenementes to another for term of life the remaidre to an other in fee & the collateral auncestre confirmeth the estate of the tenant for terme of life and byndeth him and hys heires to warrantise for terme of life of the tenante for terme of life and dyeth, and the tenant in the tayle

hath

hath yſſue, and dyeth, now this yſſue is barred to aske the tenements by writ of formedone during the life of the tenaunte for terme of lyfe, because of the collaterall diſcent vpō the yſſue in the tayle. But after the deceale of the tenaunt for terme of lyfe, the yſſue ſhall haue a formedon. &c. And vpon this I haue heard a reaſon that this caſe ſhall proue by another caſe, that is to ſaye, if a man let hys lande to another, to haue and to holde vnto hym, and to hys heyres for terme of anothers lyfe, and the leſſour dyeth, leuynge hym to whoſe life. &c And a ſtraunger entreth in the lande that the heyre of the leſſee may put hī out, for this that in the caſe next afore ſayde, in ſo much that a man may bynde hym and hys heyres to warrant to the tenaunt for terme of lyfe, all onely during the life of the tenaunte for terme of lyfe, and the warrantyſe dyſcendeth to the heyre of him that made the warrātyſe, ꝑ which warrantyſe is no warrantyſe of inheritance but al onlye for terme of an others life, by the ſame reaſon where tenementes be lette to a man to haue and to holde to hym and to hys heyres for terme of anothers life, if the father dye liuynge he to whoſe lyfe hys heyre ſhall haue the tenementes leuynge hym to whoſe lyfe. &c. For they haue ſayde that if a manne graunt an annuity to an other to haue and to take to hym and to his heyres for terme of an others life if the graunte dye. &c. That after his heyre ſhall haue the annuitie during the

lyfe

lyfe of hym to whose lyfe. &c. Quere de ista materia.

¶ But where suche lease or graunte is made to a man or his heyres for terme of yeares, in this case the heyre of the lesse, and the graunt shall neuer haue after the death of the lessee or the grauntee that, that is so letten or graunted, for this that it is Chatell reall, and all chatels reals by the common lawe shall come to the executors of the graunte or of the lessee and not to the heyre. &c.

¶ Also in some cases it may be that howbeit that a collaterall warrantyse be made in fee. &c. yet suche warrantise maye be defeated and anpented. As the tenaunt in the tayle discontinue the tayle in fee, and the discontinue is disseysed, and the brother of the tenant in the tayle releaseth by his dede to the disseysoure all hys ryght. &c. with warrantyse in fee, and dyeth without issue, and the tenaunte in the tayle hathe issue, and dyeth, nowe the issue is barred of hys accion by force of the collaterall warrantyse descendynge vpon hym, but if after thys the discontinue enter vpon the disseysour, than maye the heyres in the tayle haue hys accyon of formedon. &c. for thys that the warranty is anpentyd and defeated. For whē the warrantise is made vnto a man vpon any estate that then he had, if the estate be defeted the warranty is defeted.

¶ In the same maner it is if the discōtinuee make a feoffemente in fee reserupnge to hym certain

certayne rent, and for defaute of payment & reentre &c. a collateral auncestre releaseth to the feffee ỹ hath estate vpon condicion &c. & dieth without issue though that the warrantise descend vpon the issue in the tayle, yet if after the rent be behind & the discontinuee entreth into the land &c. thē the issue in the tayle shal haue his recouerie by a writ of formedon for this that, that warrantie collateral is defiled And so if any such collateral warrantie be pleded against the issue in the tayle in his accion of formedon he may shew the matter as it is aforesayd, how the warrantie is defeted, and so he may wel mayntayn his action.

¶ Also if tenant in the tayle make a feffement to his vncle & after his vncle maketh a feffement in fee with warrantise &c. to another, & after the feoffee of the vncle enfeffeth agayne the vncle in fee. & after the vncle enfeoffeth a straunger in fee without warrantie, and dyeth without issue, and the tenant in the tayle will bringe his writte of formedone agayn̄ the straunger that was in the feoffement & cetera, by the vncle, in this case the issue shall neuer be barred by the warrãtie that was made by the vncle to the sayd first feoffee of his vncle, for this that the sayd warrantie was defeated and anyented, for this that the vncle toke againe to him as great estate of his said first feoffe to whom the warrantie was made as the same feoffe hadde of him. And the cause why the warrantie is anyented, in this case

is this

is this that is to saye, that if the warrantie wer in his force, then the vncle shall warrant vnto hymselfe that may not be, but if the feffee made estate to the vncle for terme of life or in fee tayle, sauing the reuercion vnto him et cetera. Or that he make a gyft in the tayle to the vncle, or a lease for tearme of yeres, the remaynder ouer &c cetera. In this that warrantie is not all vtterlye aniented, but it is putte in suspence during the estate that the vncle hadde, for after this that the vncle is deadde without issue, then he in the reuercion or he in the remaynder shal barre the issue in the tayle of his writ of formedon by the collateral warrantye in such case, &c. But other wyse it is, where the vncle hadde as greate estate in the lande by the feoffe to whome the warrantie was made as he feoffee had of hi &c.

¶ Also if the vncle after such feoffement made with warrantie or a release made by hym with warrantie be attaynt of felony or outlawed of felony, such collateralt warrantie shall not barre nor grieue the issue in the tayle for this that by the attaynder of felonye the blood is corrupt betwene them &c.

¶ Also if tenant in the tayle be disseised, & after maketh a release to the disseisour with warrantie in fee and after the tenant in the tayle is attaynt, outlawed of felony and hath yssue, and dyeth, in thys case the yssue in the tayle may enter vpon the disseisour.

¶ And the cause is for this that no thynge maketh

maketh discontinuaunce in this case but the warrantie, and the warrantie may not be pleed to the issue in the tayle for thys that the blood is corrupt betwene hym that made the warrantie, and the issue in the tayle. ¶ For the warrantise alway abydeth at the common lawe, & the common lawe is such that whan a man is outlawed or attaynt of felony, which outlary is an attayndre in the law that the bloud betwene hym and his sonne and all other which should be sayd hys heyres is corrupte, so that nothyng by discent may discende to any that may be hys heyre by the common lawe. And the wyfe of such a man that is so attaynt shal neuer be endowed in the tenementes of her husband so attaynt.

¶ And the cause is because men should more eschew to doo felony &c. But the issue in the tayle, as to the tenementes tayled is not in suche case barred because he is inherited by force of the statute and not by the course of ꝑ common lawe. And therfore such attayndre of hys father or of hys auncestre in the tayle &c. shall not putte hym out of his ryghte, that he should haue by force of the tayle &c.

¶ Also yf tenaunt in the tayle enfeoffeth hys vncle which enfeoffeth another with warranty &c. if after the feoffe by hys dede releasse to the vncle all maner of warranty, or all maner of couenauntes reals. or al maner of demaundes by such releasse the warranty is extinct. And if the warranty in such case be pleded

ded agaynſte the hetre in the tayle that bryngeth his writ of formedō to barre the heyre of his accion, if the heire haue and plede the said releaſe. &c. he ſhall defete the plee in barre. &c. And many other caſes and matters be there, wherby a man may defete warranties.

¶ And it is to wyt that in theſame maner as collaterall warranty maye bee defeted by matter in dede or in lawe, in theſame maner may lyneall warrantye be defeted. &c. For if ℔ heire in the taile bring a writ of formedon, & a lyneall warrantie of his anceſter inheritable by force of the taile be pleded againſt him with that that affetz to him deſcended of feſimple by theſame anceſter that made the warrantie yt the heyre that is demaundant may adnul and defete the warranty, this ſufficeth to hym for the dyſcent of other tenementes of fee ſimple maketh nothing to barre the heyre without the warrauntye. &c.

T.i.

FINIS.

Here beginneth the Table of this present Booke.

NOw haue I made for the my son thre bokes.
The firste is of estate that men haue of landes or tenementes, that is to saye,
Of tenant in fee simple.
Tenant in fee tayle.
Tenant in the tail after possibilitie of issue extinct.
Tenant by the curtesy of England.
Tenant in dower.
Tenaut for terme of life.
Tenant for terme of yeares.
Tenant at will by the common law.
Tenant at will by the custome of the maner.

¶ The seconde Booke.

¶ The seconde boke is of homage.
Fealtie.
Escuage.
Knightes seruice.
Socage.
Frank almoigne or fre almes.
Homage auncestrell.
Graund sergeanty.
Petty sergeaunty.
Tenure in burgage.
Tenure in villeynage.

¶ Of

¶ Of thre maner of rentes, that is to say,
Rent seruice.
Rent charge.
And rent seche.
¶ And these two smal bokes haue I made for thee for to vnderstande better certain chapiters of the auncient bokes of tenures.

¶ The thyrde booke.

¶ The thyrde boke is of parseners.
Of ioyntenaunces.
Tenauntes in common.
Estates of landes or tenemẽtz vpon condicio.
Discentes that take away entres.
Contynuall clayme.
Releses.
Confirmacions.
Attournementes.
¶ Remitters of garranties, that is to saye,
Garrantie lineall.
Garrantie collaterall.
And Garrantie that beginneth by dissesyn.

¶ And knowe thou my sonne that I wil not that thou beleue that all that that I haue sayde in the sayd bokes be law, for that wyl I not take vpon me nor presume. But of those thinges that be not law enquire and learn of my wyse maysters learned in the lawe. Notwythstandyng thoughe that certayne thinges that bee noted and specifyed in the said bokes

bee not lawe, yet suche thynges shall make thee more apte and able to vnderstande, and learne the argumentes and the reasons of the lawe. For by the argumentes, and the reasons in the lawe a manne maye more soner come to the certainte and to the knowledge of the lawe. Lex plus laudatur quando ratione probatur.

(.r)

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